

16 January 2023

Department of Employment and Workplace Relations

Via: asg@dewr.gov.au



Dear Secretary,

The Victorian Trades Hall Council (VTHC) welcomes the opportunity to make a submission in response to the Australian Skills Guarantee Discussion Paper. VTHC commends the Albanese Labor Government's commitment to the Skills Guarantee, and to ensuring apprentices receive the best on-the-job training that will lead to good, secure jobs.

VTHC was founded in 1856 and is the peak body for unions in Victoria. VTHC represents 41 unions and more than 500,000 workers in the state. These workers are members of unions that reach into every industry across Victoria. Since winning the Eight Hour Day in 1856, VTHC has had a long history of fighting for and defending the rights of all workers to safe jobs and fair pay.

In collaboration with affiliated unions, VTHC has undertaken a significant body of work focused on assisting people from marginalised and excluded communities in to work. This includes both participation in and coordination of programs aimed at recruiting and supporting women into historically male dominated trades and industries. Our submission is primarily focused on initiatives that can support this outcome, based on that experience.

If you have any questions, please contact Politics and Research Lead, Tiarne Crowther, at tcrowther@vthc.org.au.

Sincerely

A handwritten signature in blue ink, appearing to read "W. Stracke", with a long horizontal flourish extending to the right.

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Assistant Secretary

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Introduction

The Victorian Trades Hall Council (VTHC) welcomes the opportunity to make a submission on the Australian Skills Guarantee. Victorian unions are committed to ensuring that our apprenticeship system is accessible and inclusive and that it provides avenues to a long-term career in the trades.

Victorian unions were instrumental in the establishment of Apprenticeships Victoria, Victorian State Government commitments to create opportunities for apprentices through the Big Build Apprenticeships program, as well as the establishing an apprenticeships taskforce to improve regulation of apprenticeships in Victoria.

In addition to this, VTHC has worked with industry stakeholders and government over many years around initiatives aimed at delivering workplace gender equality and on supporting women into historically male dominated trades and industries.

VTHC Assistant Secretary, Wil Stracke, sits on the Victorian Government's Equal Workplaces Advisory Council and the implementation committee for the Victorian Gender Equality Act. In addition, Wil sits on the Victorian Building Equality Committee and the Construction Skills Pathway Project Governance Committee, both focused on increasing the number of women in the construction trades. Wil was also a member of the Victorian Ministerial Taskforce for Workplace Sexual Harassment and has appeared before various state and federal government enquiries focused on the challenges faced by women at work.

VTHC affiliated unions are represented on the Building Industry Consultative Council (BICC) and were a key player in developing the both the BICC Women in Construction Strategy and the Victorian Government's Building Equality Strategy. Unions remain central to its implementation and success.

VTHC also auspices the Women Onsite program, which provided Try A Trade opportunities, financial support, soft skills training and employer support to facilitate more women to take up apprentices in male-dominated trades. And VTHC Women's Rights At Work (WRAW) Chats and associated survey resulted in a Gendered Violence At Work report and the development of ground-breaking 'Gendered Violence in the workplace' training for Health and Safety Representatives and 'Respectful Workplaces' training for workers, employers and TAFE's which runs alongside 'Family and Domestic Violence as a Workplace Issue' training.

The Victorian union movement's experience in developing policy and campaigning for positive change for working women, providing training to workplace representatives around gendered violence and discrimination and in delivering services for working women demonstrates our commitment to gender equality. Our recommendations centre working people and the voices of working women and aim to build gender equality into the Australian Skills Guarantee.

Our recommendations address specific questions in Chapter 4 and 8.

Targets for Women

A significant amount of advocacy, consultation and negotiation has occurred in Victoria around setting targets for women in construction. This work should be used to guide the process of establishing targets at the national level.

Case study: the development of Victoria's 'Building Equality Strategy'

Victoria's Building Industry Consultative Council (BICC) is a longstanding council with members appointed by government. Membership comprises VTHC, construction unions, employer peaks and Tier 1 contractors.

In 2018, BICC began considering how to increase the number of women in construction under the terms of industry Enterprise Bargaining clause around diversity. The BICC established the Women in Construction (WIC) subcommittee. This was made up of VTHC, the Electrical Trades Union (ETU), Construction Forestry Maritime Mining and Energy Union (CFMEU), Industrial Relations Victoria (IRV), Probuild, Multiplex, Master Builders, Incolink and the University of Melbourne.

In 2019, the BICC WIC subcommittee commissioned a literature review and industry focus groups to look at barriers to participation. This identified three key issues:

- Attraction: girls and women are actively discouraged from considering a career in the construction industry trades
- Recruitment: employers do not consider women for roles and/or women are not part of the networks where workers are recruited
- Retention: workplace cultures are not welcoming and/or are hostile to women

Research indicated past initiatives that had addressed one or other of these challenges had failed to deliver meaningful change. Out of this research, a strategy was developed by BICC WIC, focusing on initiatives around all three areas - attraction, recruitment and retention. This strategy was adopted as the Victorian Women in Construction strategy in partnership with the Victorian Government.¹

Significantly, all the industry parties took responsibility for different initiatives identified under the strategy. To address issues of attraction, a website was developed with the aim of normalising women in trades and providing an entry point for women interested in finding out more. To address issues of recruitment, gender bias recruitment tools were developed by the Master Builders. To address the issue of retention, VTHC was funded through the strategy to develop 'Respectful Workplaces' training.

Under the terms of the Victorian Gender Equality Act, the relevant Minister may consider the implementation of quotas or targets as part of procurement. Pursuant to this power, the Victorian Minister for Industrial Relations then tasked IRV with consultation around the possibility of implementing targets/quotas in construction procurement.

Victorian unions strongly advocated for the implementation of targets. In addition, we proposed additional measures as previous experience of social procurement is that it does not deliver long term, sustainable change without a requirement for organisational

¹ Victorian Government (2022), Victoria's Women in Construction Strategy, Victorian Trades Hall Council, accessed: <<https://www.vic.gov.au/victorias-women-construction-strategy>>.

change and without accountability measures. Given that, Victorian Unions advocated for additional measures such as Gender Equality Action Plans based on the requirements of the Victorian Gender Equality Act and a strong compliance mechanism.²

In 2021, BICC WIC received further funding and was renamed the 'Building Equality' committee, with additional members added. As a result of the consultation process, IRV finalised the Building Equality Policy, which was agreed and signed off by government.

The Victorian Building Equality Policy applies to all projects valued at \$20 million or more. Targets were set using data obtained showing current numbers of women across the industry, were agreed to be ambitious but not impossible to achieve and are intended to increase over time. The requirements of the BEP are as follows:³

- trade covered labour: women are required to perform at least 3% of the contract works' total estimated labour hours for each trade position,⁴
- non-trade Construction Award covered labour: women are required to perform at least 7% of the contract works' total estimated labour hours for each non-trade Construction Award covered labour position, and
- management/supervisory and specialist labour (staff): women are required to perform at least 35% of the contract works' total estimated labour hours for each staff position.

This policy sits alongside the existing Victorian Government Major Projects Skills Guarantee (MPSG), which provides opportunities to Victorian apprentices, trainees and cadets. This requires contractors to deliver at least 10% of labour hours using apprentices, trainees and cadets to work on high value government construction projects.

- Under the terms of the Building Equality Policy, suppliers are required to engage women who are registered apprentices or trainees to perform building and construction work for at least 4% of the 10% required by the MPSK. This measure aims to increase the pipeline of women entering the industry.

In addition to targets, the BEP requires that applicable contractors develop a Gender Equality Action Plan (GEAP) that addresses the following:

- Prevention of gendered violence including sexual harassment and established responses to incidents,
- Inclusive and respectful workplaces, including respectful workplace training and promoting a gender-inclusive and equitable workplace culture,
- Flexible and empowering workplaces, including flexible work arrangements and secure employment are available to all workers,
- Benchmarks and actions to measure and strive for gender diversity and representation,

² Victorian Trades Hall Council (2022), Options Paper: Gender Equality in the Construction Industry, Victorian Trades Hall Council.

³ Victorian Government (2022), Building Equality Policy, Victorian Government, <accessed: <https://www.vic.gov.au/building-equality-policy>>

⁴ Defined by the Victorian Government as: "building/construction qualified trades and apprentices engaged by the Principal Contractor or sub-contracted to perform work."

- Improvement of leadership, representation and accountability by increasing the visibility of women in leadership and creating a strategy for achieving gender balance in leadership and across the organisation, and
- Collecting and reporting data about gender equality and gender pay gap.

The policy is currently in roll-out stage meaning compliance is voluntary. From 2024, compliance will be mandatory, with GEAP's becoming contractual terms and potential consequences for a failure to adhere to quotas or to meet targets.

As a result of these conversations and policy developments, the Victorian Government has taken leadership on the issue to ensure that targets for women would apply to Big Build construction projects through the Building Equality Policy. Union advocacy has also resulted in commitments to set targets for the Victoria's massive Big Housing Build, ensuring a certain proportion of labour comes from women, First Nations, people with disability and social housing tenants.⁵

Lessons:

The targets set out in the Victorian BEP policy are tangible and achievable, given the current state of play. National targets should similarly be ambitious but realistic. There should be consequences for failure, meaning they should push the industry beyond their comfort zone but not beyond what is achievable. And they should be reviewed on an annual basis with the intention that they increase over time.

While Victorian Trades Hall Council (VTHC) does not recommend a specific national target or timeframe, VTHC strongly recommends that consultation with unions be a pre-requisite in identifying and reaching any targets.

Ultimately, VTHC underscores the importance of bringing the voices of workers to the fore in this process. Trade unions are best equipped to lead these conversations, given unions' experience and expertise in negotiating with employers and decision-makers, as well as our on-the-ground experience with barriers to women workers.

Recommendation 1: Ensure that trade unions are involved in consultation and policy development at every step of the way towards targets for women in construction, including in developing the targets, implementing the targets and monitoring compliance.

Recommendation 2: Ensure that gender targets and support services occur alongside a broader industry-based procurement framework that includes targets/quotas, broader gender equality measures and monitoring/compliance mechanisms.

Initiatives to support women in VET

People from marginalised and excluded communities face additional challenges to commencing and completing an apprenticeship. The VET system has not been a supportive space for women seeking to undertake trade apprenticeships. However, with targeted support it is our experience that women can successfully navigate pre apprenticeship training and obtain an apprenticeship.

⁵ Premier of Victoria, the Hon Daniel Andrews (2020), Victoria's Big Housing Build, accessed: <<https://www.premier.vic.gov.au/victorias-big-housing-build>>

Case study: Women Onsite

The Women Onsite (WO) program was run through the Victorian Trades Hall Council and supported women in overcoming barriers to entry into historically male dominated trades and industries. It provided women with material support and specialised guidance to find and complete a pre-apprenticeship and get into a trade apprenticeship. VTHC led this work because of our expertise in the systemic issues that prevent women and girls from considering and undertaking a trade occupation.

The program incorporated the following elements:

Attraction: normalising women in trades

- A website and social media presence sharing the stories of women with successful careers in trades
- 'Try a Trade' and 'Industry Days' where girls/women can try their hand at using tools under the guidance of experienced tradeswomen and/or ask questions about potential careers in particular trades

Recruitment: supporting women into pre apprenticeships and overcoming employer recruitment practices that openly or unintentionally exclude girls and women

- In partnership with TAFE's and RTO's, women only pre apprenticeships to foster a supportive environment
- The provision of tools and other material support to the women participants
- The provision of 1:1 support in the form of soft skills and job readiness training for women participants (resume preparation and participant understandings of workplace rights, cultures, and expectations, foundational skills, the ability of participants to make informed career decisions)

Retention: changing workplace cultures that foster harassment and bullying

- Respectful Workplaces training delivered to women participants, participating TAFE's and RTO's as well as industry employers to create safe and respectful working environments for women
- Linking participants into trade unions to ensure they are then supported into and through their apprenticeship.

WO was coordinated by VTHC with the support of a steering committee made up of employers, unions and relevant government departments. Bringing stakeholders together was an important part of ensuring the program delivered on its outcomes.

Lessons:

This holistic approach proved to be extremely effective in helping women build careers in male-dominated industries. Through the Women Onsite project, 41 women have commenced apprenticeships in electrical trades, 17 in carpentry, 1 in cabinetmaking, 5 in the automotive industry, 1 in plumbing, 1 in landscaping and 1 in painting.

As part of the program, the VTHC commissioned Melbourne University to undertake an evaluation of the project, with a focus on understanding the experiences of the women

who participated. The Women Onsite evaluation report titled 'Listen and Learn: Insights from women entering historically male-dominated trades' (attached), conducted by Professor Valerie Francis and Radhika Chugh from the University of Melbourne, makes recommendations on learnings from the delivery of the pilot.

These recommendations include challenging dominant narratives around women's participation in trades and promoting the availability of well-paid and secure work within trades. Other recommendations include providing access to flexible pre-apprenticeships, exploring further material supports such as childcare in future programs, and providing additional training to workplaces to make sure women feel welcome in them.

The program has already been hugely successful, and we would recommend that this model be replicated across Australia through the relevant Trades and Labour Councils in each state. Trade unions and union-affiliated organisations are particularly well-placed to deliver these services and projects given their industry expertise and long and proud history of standing up for women workers.

Recommendation 3: Invest in and expand the Women Onsite program in Victoria, and replicate the program with trade union peak bodies across states and territories in Australia.

Recommendation 4: Utilise the recommendations set out in The University of Melbourne evaluation of the Women Onsite project, "Listen and Learn: Insights from women entering historically male-dominated trades" in the implementation of similar programs across Australia.

Working Womens Centre

Women trade apprentices experience the same challenges as other apprentices. However, various studies have shown that these are compounded by their experience of discrimination and gendered violence in the workplace, particularly for First Nations women, LGBTIQ+ women, CALD women and women with disabilities.

We note that the Respect@Work Report recommended the establishment of Working Women's Centres to assist women to address issues of workplace discrimination, sexual harassment and gendered violence.

These should combine the provision of industrial advice/assistance, educational outreach and community advocacy. The trade union movement is uniquely placed to deliver on this model. Our experience in workplace and community education and the provision of industrial services and our long term history of advocacy for working women mean we can ensure that Working Women's Centres are an effective vehicle for meaningful change.

Recommendation 5: The government should fund Working Womens Centres in every state and territory based at the respective Trades and Labour Councils.

Gendered Violence

In 2015, VTHC commenced a process of Women's Rights at Work Chats (WRAW) chats. This was a structured conversation kit that allowed women to share their experiences -

both good and bad – at work. An online survey ran alongside the WRAW Chats. Over time, 1000's of working women have participated in this process, from all industries, sectors and regions.

The overwhelming message is that women do not feel safe, respected or equal at work. WRAW Chats revealed that 64% of women workers reported experiencing bullying, harassment or violence at work. The experience of gendered violence and sexual harassment led women to feel unsafe and 19% of participants cited "unsafe work environment" as a factor in their decision to leave paid work.

Unsafe workplaces are a significant contributor to women workers leaving their industry. Eliminating gendered violence at work would increase the chances that women will complete their apprenticeships and remain in the trades long term.

The Albanese Government's commitments to implement the Respect@Work recommendations and its implementing of paid domestic violence leave are commendable. Implementing much needed reforms like these will improve the lives of working women and encourage them to stay in their trade and in the workforce.

However, further steps need to be taken to ensure that women workers are not silenced and are provided accessible and effective avenues to seek justice when gendered violence has occurred.

VTHC recommends that the Federal Government legislates to hold company directors and senior management liable for sexual harassment in circumstances where it is found that they have failed to meet their obligations under the Sex Discrimination Act and/or Fair Work Act.

Workers who are subjected to sexual harassment, especially women workers, suffer the damaging consequences of that harassment. Victorian unions report the extent of the mental and physical toll that sexual harassment has on their members. However, the legal structures of sexual harassment and sex discrimination laws mean that employers tend to focus on what they can do to avoid legal liability for sexual harassment in the workplace, rather than discharging their duty in a way that seeks to genuinely minimise and eliminate the scourge of sexual harassment and gendered violence.

Employers treat sexual harassment as a cost of doing business, resolving claims through formal, legal channels that further exacerbate the mental and emotional impacts on victim/survivors. This results in managers, directors and leaders of workplaces being protected by the law, rather than vulnerable women workers. A stronger deterrent for directors and employers is required for them to discharge their duties properly.

Further, the Federal Government should legislate to ban all non-disclosure agreements (NDAs) in cases of workplace sexual harassment and discrimination. The only exception to this ban should be for those requested by victim-survivors to protect their own confidentiality and they should hold power to rescind the NDA at any time.

While proponents of NDAs point to opportunities for greater compensation for a victim, it is clear that in actuality, NDAs are often used to safeguard the reputation of a business by silencing a victim. This not only has repercussions for the victim, who often cite feeling isolated and disempowered by the conditions of an NDA, but also perpetuates a culture of silence which releases employers from any obligation to address the systems of work

that allowed the sexual harassment or assault to occur. NDAs contribute to unsafe workplaces for women workers and their use needs to be reviewed and restricted.

These measures would also ensure that women workers can use their voice to protect themselves and allow trade union officials, health and safety representatives and delegates with the tools to ensure that their work sites are safe for women tradespeople and apprentices.

Recommendation 6: Legislate to hold company directors and senior management liable for incidents of sexual harassment in circumstances where it is found that they have failed to meet their obligations.

Recommendation 7: Legislate to ban all non-disclosure agreements (NDAs) in cases of workplace sexual harassment and discrimination, other than those requested by victim-survivors to protect their own confidentiality.

Conclusion

Victorian trade unions have advocated strongly for better representation of women in construction and delivered programs that have demonstrated just what needs to be done. VTHC has used in-house research such as WRAW Chats, collaborated with industry to advise and consult on government policy, through WICC and other boards and committees, developed submissions with affiliated unions on government proposals. VTHC also delivered Women Onsite to support women into trades apprenticeships. Our commitment to breaking down barriers for women in trades and setting an example on how to make male-dominated industries more inclusive is demonstrated by our work.

VTHC's work with affiliated unions, and the Victorian Labor Government, employer groups and academics, has resulted in the implementation of powerful policies that will materially improve the lives of women apprentices in Victoria. VTHC recommends that the Federal Government use the model of having trade unions front and centre in consultation on skills policies. Unions and government must work together on procurement policy, support service planning, and infrastructure investments to create opportunities for women workers.

Working people know the importance of equality and fairness. They know the importance of being treated with respect no matter what their gender identity or where they come from. VTHC's recommendations aim to rebalance power in favour of women workers, who have historically been disempowered when they take on roles and occupations that do not conform to dominant gender expectations.

List of Recommendations:

Recommendation 1: Ensure that trade unions are involved in consultation and policy development at every step of the way towards targets for women in construction, including in developing the targets, implementing the targets and monitoring compliance.

Recommendation 2: Ensure that gender targets and support services occur alongside a broader industry-based procurement framework that includes targets/quotas, broader gender equality measures and monitoring/compliance mechanisms.

Recommendation 3: Invest in and expand the Women Onsite program in Victoria, and replicate the program with trade unions and trade union peak bodies across states and territories in Australia.

Recommendation 4: Utilise the recommendations set out in the University of Melbourne evaluation of the Women Onsite project, 'Listen and Learn: Insights from women entering historically male-dominated trades' in the implementation of similar programs across Australia.

Recommendation 5: Fund support the establishment and operation of a Working Women's Centre in every state and territory located at the relevant trade union peak body, to provide advocacy and support to victim-survivors.

Recommendation 6: Legislate to hold company directors and senior management liable for incidents of sexual harassment in circumstances where it is found that they have failed to meet their obligations.

Recommendation 7: Legislate to ban all non-disclosure agreements (NDAs) in cases of workplace sexual harassment and discrimination, other than those requested by victim-survivors to protect their own confidentiality.