

Reminder: Accident make up pay is back

The Fair Work Commission has reintroduced accident make up pay provisions into a number of modern awards, including the Vehicle Manufacturing, Repair, Services and Retail Award 2010 (the VMRSR Award). The Fair Work Commission had previously removed the accident make up pay clause in most awards when the new modern awards came into operation on 1 January 2010. The new make up pay provision in the VMRSR Award commenced operation on 15 October 2015.

The new accident make up pay clause provides a maximum period of 26 weeks over which accident make up pay is payable only if workers' compensation payments do not cover an employee's base rate of pay. The previous award clause provided accident make up pay for 39 weeks.

When does accident make up pay apply?

The employer must pay accident make up pay where an employee suffers an injury, and weekly payments of compensation are paid to the employee under the applicable workers' compensation legislation.

An employee will not be entitled to any payment in respect of any injury during the first five normal working days of incapacity. An employee will also not be entitled to any payment for any incapacity occurring during the first three weeks of employment, unless such incapacity continues beyond the first three weeks of employment.

How is accident make up pay calculated?

For the purposes of calculating payments under the VMRSR Award, accident make up pay means a weekly payment made to an employee by the employer that is the difference between the weekly amount of compensation paid to an employee pursuant to the applicable workers' compensation legislation and the weekly amount that would have been received had the employee been on paid personal leave at the date of injury (not including over award payments).

Please note: Accident make up pay does not include over award payments, shift premiums, overtime payments, fares and travelling allowance, tool allowance or other special rates. It is advisable that you contact VACC if you have an injury in your workplace that could attract accident make up pay.

Annual Wage Review 2016/2017

The ACTU is seeking a flat increase of \$30.00 per week to the national minimum wage in the forthcoming Annual Wage Review. VACC has filed a submission opposing the claim.

The Fair Work Commission will conduct hearings on 17 and 18 May 2016. In line with previous Annual Wage Reviews if an increase is awarded to minimum award pay rates, the increase will take effect from the full pay period on or after 1 July 2016.

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464 St Kilda Road
Melbourne, VIC 3004
9829 1111

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Bupa

The VACC Corporate Health Plan offers members and their staff a wide range of choice of Hospital and Extras Health Cover. Call BUPA on 134 135 & quote ID 2097845



TNT

Offers exclusive low rates for members on a wide range of on-demand, time-sensitive, door-to-door freight services within Australia and around the world. Call Luke Kearney at VACC on 03 9829 1156 for an Application Form or download from vacc.com.au (Member's Section).



Commonwealth Bank

The Commonwealth Bank VACC EFTPOS deal offers members competitive rates and fees. For more information go to vacc.com.au/eftpos



that was easy.®

Staples

Staples offers VACC members a comprehensive range of business and workshop supplies that can be conveniently purchased from a single source. Call Luke Kearney at VACC on 03 9829 1156 to request an Application Form.



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Visit the new look OurAuto iStore. There's a whole new range of promotional products to choose from. Members are eligible for a 15% discount. Visit autoistore.com.au



Remondis

Remondis offers a waste collection service for VACC members at exclusive rates. To find out more call Luke Kearney at VACC on 03 9829 1156.



OurAuto Digital

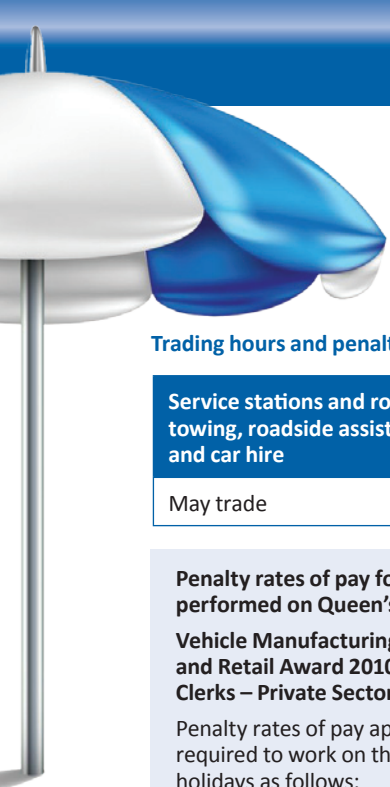
OurAuto Digital offers a professional website design service that includes domain management, hosting, email management and Search Engine Marketing. Our websites are designed to be self-managed and we offer a range of options and expansions to ensure that your website is as individual as your business. Go to ourauto.com.au to find out more



Prushka

Prushka offers a Collection Service at special rates for VACC members. To find out more go to vacc.com.au/debtcollection

For more information: Call VACC on 9829 1156



Public holiday: Queen's Birthday

The Queen's Birthday, Monday, 13 June 2016, is a holiday throughout Victoria and Tasmania.

Trading hours and penalty rates of pay for Queen's Birthday are as follows:

Service stations and roadhouses, towing, roadside assistance and car hire	New and used car showrooms and yards, motorcycle establishments, workshops, car washing and parking establishments, tyre retailers, boats, caravans, trailers, dismantlers and recyclers
May trade	May trade

Penalty rates of pay for work performed on Queen's Birthday

Vehicle Manufacturing, Repair, Services and Retail Award 2010 and Clerks – Private Sector Award 2010

Penalty rates of pay apply to employees required to work on the above public holidays as follows:

- All employees except console operators, driveway and roadhouse attendants and casuals employed in any classification: **Double time and a half**
- Console operators, driveway and roadhouse attendants employed on a full time basis (i.e. weekly hired): **Double time**

- Casual console operators, driveway, and roadhouse attendants: **Flat rate applicable to Saturday, Sunday and public holidays is payable**
- Vehicle Salespeople: **By mutual agreement a day off in lieu, otherwise double time and a half ***
- Other casuals (working in any class of work): 175 per cent loading

'DOUBLE TIME' means 'single time' extra for the hours actually worked in addition to the day's wages paid for the week.

'DOUBLE TIME AND A HALF' means 'time and a half' extra for the hours worked in addition to the day's wages paid for the week.

*Double time and a half for salespersons means:

- ***Double time and a half for salespersons** means: If more than half a day is worked, half of the salesperson's weekly rate of pay calculated as follows:

Weekly wage rate is \$764.90, they get an additional \$229.47 (which is \$764.80 divided by 5 = \$152.98 x 1.5))

- If half a day or less is worked, one quarter of the salesperson's weekly rate of pay calculated as follows:

Weekly wage rate is \$764.90 they get an additional \$114.74 (which is half of \$229.47

Failing to follow fair process leads to unfair dismissal

VACC Industrial Relations is very pleased to see that the number of unfair dismissal applications received from members has significantly decreased over the past two years. A large part of this is due to the processes members are now following in their businesses as a result of using our free telephone advisory service.

We have reminded members about this service in previous *Update* articles but it is worth repeating that getting advice on managing employees during a disciplinary or dismissal process can help prevent costly and time consuming unfair dismissal claims.

The case below illustrates that tolerating poor performance and failing to use a fair and transparent disciplinary process will end up with a poor outcome for the employer.

In this case, an environment officer claimed unfair dismissal because the employer didn't follow its own performance management procedures in terminating the employee and did not provide the employee with an opportunity to improve. The employer claimed that there was a history of poor performance over an

extended period and had warned the employee about her defective work record. The employee claimed she had never received written or verbal warnings about her performance, and that the performance issues raised with her shortly prior to her dismissal were 'trivial' and resulted from inadequate communication and training.

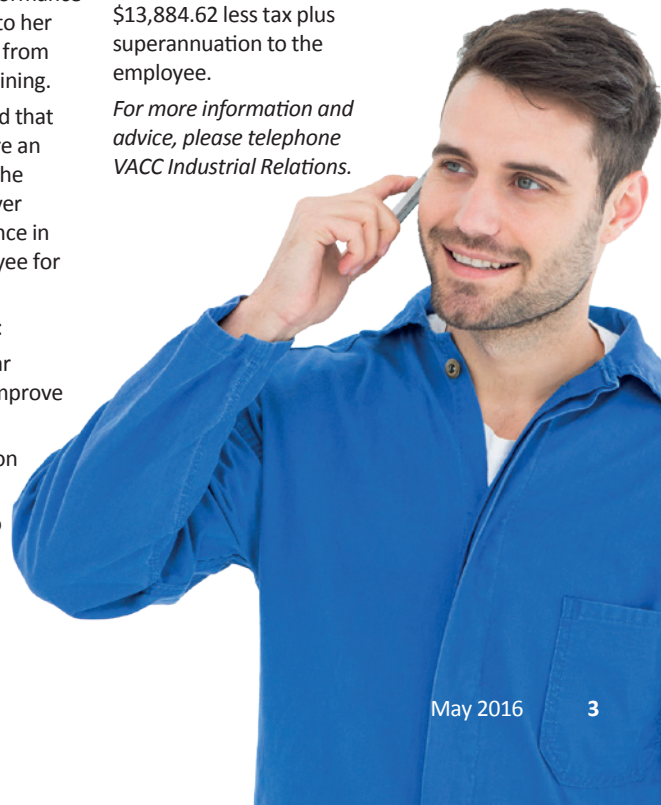
The Fair Work Commission accepted that the employer was entitled to require an acceptable standard of work from the employee. The termination, however resulted from poor work performance in roles not undertaken by the employee for some period of time.

The employee's supervisor had not:

- instituted any formal steps or clear instructions to the employee to improve her performance
- told the employee that her position was at risk if she did not improve
- given the employee the chance to improve her performance, or
- followed advice received from its own HR Department on the termination process.

In this case, the Fair Work Commission found that poor performance was proved but the failure to follow a fair process meant the termination was unfair. The employer was ordered to pay \$13,884.62 less tax plus superannuation to the employee.

For more information and advice, please telephone VACC Industrial Relations.



Casual and part-time employment update

VACC Industrial Relations has recently been involved in a major hearing in the Fair Work Commission opposing claims by the ACTU and unions to include provisions in awards that have the potential to reduce the flexibility of businesses to employ casuals and part-time employees.

Earlier this year, VACC and other Motor Trades Organisations in South Australia, New South Wales and Western Australia asked members to participate in a survey to obtain members' views on the major claims the ACTU and unions are seeking. VACC Industrial Relations would like to thank those members who participated in the survey and, in particular, the three members who gave evidence on behalf of the automotive industry before the Full Bench.

The major claims are:

Casual employees

- Amend the casual conversion provision so that a regular casual is automatically deemed to be a permanent employee after six months, unless the casual employee elects to remain as a casual.
- Insert a provision that would require a minimum engagement period of four hours for casual employees. No minimum period of engagement currently exists in the VMRSR Award.

Part-time employees

- Insert a provision that would require a minimum engagement period of four consecutive hours per shift, per day for part-time workers. No minimum period of engagement currently exists in the VMRSR Award.
- Insert a provision that would require an employer to first offer additional hours of work to existing part-time employees before increasing the number of part-time employees in employment.

Current position regarding conversion from casual to permanent employment

Under the VMRSR Award, employers have an obligation to offer permanent positions to casual employees (either full-time or part-time based upon the hours the employee was working in a casual capacity) after they had worked for a business for a period of six months or sequence of periods amounting to six months on a regular basis. The existing clause is known as 'the casual conversion clause'.

An employer is required to give notice in writing within four weeks of the casual employee working for six months. An employee then has four weeks to accept the offer. If they do not respond within the four weeks, the employee will remain

a casual employee. The employer must not unreasonably refuse to offer either a part-time or full-time position. If there are sound business operating circumstances for not doing so then an employer may reject the right to convert.

The casual conversion clause was introduced into the award when the modern Vehicle Manufacturing, Repair, Services and Retail Award 2010 came into operation on 1 January 2010. A casual conversion template can be obtained from the VACC website. The template is a pro forma letter advising the employee of their right to elect to convert to permanent employment. The letter also emphasises that if the casual elects to convert to either part-time or full-time employment they lose their casual loading.

The casual and part-time employees case is a major case run by the ACTU and unions over what they regard as insecure employment of casual and part-time employees being trapped in jobs where they cannot advance to permanent jobs. The case will involve approximately 140 witnesses on both sides and there is unlikely to be a decision until the last quarter of 2016. VACC Industrial Relations will continue to provide updates to members on this case.

Award FAQs

VACC Industrial Relations often hears the same questions asked by members on a regular basis. Set out below are a few of our most common questions about award entitlements.

Q. Is superannuation payable when an employee is on workers' compensation?

A. When an employee is on workers' compensation, the employer is required to make superannuation contributions on the basis of 9.5 per cent for a period of up to 52 weeks.

Q. Can annual leave be cashed out?

A. Under the Award and NES paid annual leave must not be cashed out for award

covered employees unless there is an enterprise agreement that provides for the cashing out of annual leave.

Q. What is Community Service Leave?

A. From 1 January 2010, employees, including casual employees, are entitled to take leave to carry out certain community service activities such as 'voluntary emergency management activity'. The emergency management activity must deal with an emergency or natural disaster, and it must be through a 'recognised emergency management body' such as the CFA or SES.

Community Service Leave also includes jury service. An employee is entitled to

'make-up pay' for the first 10 days that the employee is absent for a period of jury service unless State legislation provides a more generous entitlement. In Victoria, employers are required to pay make up pay for the entire duration of a hearing if an employee is carrying out jury service.

Q. Do employees have to be given notice of termination in writing?

A. From 1 January 2010, an employer must not dismiss an employee unless written notice of the day of termination has been given to the employee. The date of termination cannot be a day before the notice is given.

Four-year award review update

Removal of Section 2 - Vehicle Manufacturing from the Vehicle Manufacturing, Repair, Services and Retail Award 2010

In November 2015, a Full Bench of the Fair Work Commission issued a statement setting out their intention to remove Section 2-Vehicle Manufacturing employees from the Vehicle Manufacturing, Repair, Services and Retail Award 2010 (VMRSR Award). The Full Bench stated this was required because of the complex nature of the award with repair, services and retail and vehicle manufacturing sections, which in their view were incompatible in the current integrated award.

By way of background, the VMRSR Award currently contains provisions that relate commonly to all employees in the vehicle industry followed by provisions that relate to specific parts of the industry: section 1-Vehicle Industry RS&R employees; section 2-Vehicle manufacturing employees; section 3-Drafting, planning and technical employees; and section 4-Supervisory employees.

In March 2016, the Full Bench issued a revised set of Draft Exposure Awards for the VMRSR Award and the Manufacturing and Associated Industries and Occupations Award 2010. One of the Draft Exposure Awards, provisionally

replaces the VMRSR Award, and has been renamed as the Vehicle Repair, Services and Retail Award 2016. Section 2 of the existing VMRSR Award has been incorporated into a new draft Manufacturing and Associated Industries and Occupations Award 2016.

The most significant change, which will directly impact on VACC members and members of other Motor Trades Organisations, relates to the removal of the following clauses from the coverage clause in the existing VMRSR Award:

Clause 4.1.

e) the manufacturing, assembling or repairing of carriages, carts, wagons, trucks, motor cars, bodies, motorcycles, railway cars, tram cars, side-cars or other vehicles or parts or components or accessories in wood, metal and/or other materials;

f) manufacturing, assembling, fabricating, installing, servicing, maintaining, reconditioning or repairing of engines or vehicle servicing equipment and agricultural machinery or implements or the like where such employer immediately prior to 31 December 2009 was bound by clause 1.5.4 (a) of the Vehicle Industry Award 2000.

If the existing coverage clauses above are removed from the VMRSR Award, it will mean that some member businesses engaged in vehicle manufacturing activities

and related activities such as vehicle body building, bus, truck and trailer manufacturing, engine reconditioning and potentially other businesses, including agricultural businesses, engaged in some manufacturing, fabrication, assembly and repair activities, could be required to apply the provisions of the Manufacturing and Associated Industries and Occupations Award 2016. This award will cover a myriad of manufacturing activities unrelated to the vehicle industry.

These award changes have the potential to create uncertainty, confusion over coverage between the two new proposed awards and duplication of award coverage. VACC will be strongly opposing these changes and advocating the maintenance of the status quo.

The current VMRSR Award was the subject of a protracted award modernisation review process in 2008 and 2009. Following an extensive review of submissions presented at that time, the Fair Work Commission determined that an integrated award was appropriate for the industry.

The case has been listed for hearing on 23 and 24 May 2016 the new draft exposure awards.

VACC will continue to keep members updated on the progress of this case.

Delegated workers compensation insurers to change

WorkSafe Victoria manage workers' compensation insurance in Victoria using a panel of insurance agents. Over the last six months WorkSafe has undertaken a comprehensive tender process to appoint the insurers that it wants to provide claims and premium management services from 30 June 2016.

This has led WorkSafe to appoint the following organisations to their new panel:

- Allianz Australia Workers' Compensation (Victoria) Ltd (Allianz)
- CGU Workers Compensation (Vic) Limited (CGU)
- EML VIC Pty Ltd (EML)
- Gallagher Bassett Services Workers Compensation Vic Pty Ltd (GB), and
- Xchanging Integrated Services Victoria Pty Ltd (Xchanging).

As a result of the tender the following changes to the current insurer panel have been made:

- QBE will conclude its role as a WorkSafe agent on 30 June 2016. Employers and workers who have WorkCover insurance registrations or claims managed by QBE will be transferred to either EML or Xchanging
- Approximately 6.00% market share will be transferred to Xchanging
- EML will commence as a WorkSafe agent at 4pm on 30 June 2016 and will manage approximately 13.5% market share.

VACC members and employees with current claims who are affected by this change will be sent a letter from WorkSafe in late-April and then a letter from their new agent advising of contact details in mid-June.

WorkSafe and its agents will closely manage the transition to the new agent panel to ensure continuity of service and minimal

disruption for businesses and employees.

To ensure stability in the workers' compensation scheme during the transition, WorkSafe have applied a short-term freeze on employers transferring their workers compensation insurance registrations to or from EML, QBE and Xchanging.

The freeze will take effect from 4 April 2016 and WorkSafe will review the freeze in August 2016. Otherwise it is business as usual until the changeover date. The current insurers will continue to deliver premium and claims management services to employers and workers until 30 June 2016.

For more information about the new insurer agent panel, please read WorkSafe's media release and frequently asked questions on their website or contact the VACC OHSE Unit for further information on 9829 1138.

Get your Automotive Certificate III Qualification

Phone for your individual cost 03 9829 1126

If you are experienced in your trade and meet the eligibility requirements, VACC's 2016 Automotive Certificate III Program will recognise your expertise.

You just collect evidence of your experience in relation to the units and complete a practical assessment with an Assessor in your own workshop. ▶ There are clear standards for relevant skills. ▶ There's no need for training when you can prove you have the skills and knowledge. ▶ Your Assessor has long experience in the industry and is only a phone call away.

What's on offer?

Certificate III qualifications available for light vehicle (mechanical), heavy vehicle (trucks, agricultural, mobile plant), body repair and refinishing, auto electrical, motorcycles and automotive sales.

How it works

1. We identify your skills during an initial consultation
2. We recommend the appropriate qualification

3. We assist you in collating the evidence to prove your skills
4. We map your skills with the qualification requirements
5. We identify training gaps (if applicable), and provide flexible training options
6. We prepare your RPL application for nationally recognised qualification

Requirements

- Must have extensive industry experience
- Must be an Australian citizen or resident, residing in Victoria
- Must meet eligibility criteria

Cost

\$1199 – \$1499 (subject to eligibility criteria and qualification undertaken)

How to apply

Phone for your individual cost: 03 9829 1126

Further information: vaccsd.com.au/Technical/Certificate III



PARTICIPANT'S DETAILS

Title Surname

Given name(s)

Email

Business name

Business address

State Postcode

Phone (W) Fax

Mobile

(For more than one participant, include separate enrolment form)

PAYMENT DETAILS (enrolments cannot be accepted without payment)

VACC member VACC non-member

Total \$ amount (inc GST)

Cheque/money order (Made payable to Victorian Automobile Chamber of Commerce)

Visa Mastercard Diners Amex

Card number

Expiry / CCV

Card holder name

Card holder signature

American Express and Diners Club payments are subject to a 2.5% surcharge

25 YEARS

Congratulations to the following businesses on 25 years of membership

Ashmores Automotive Smash Repairs Pty Ltd

Lilydale VIC 3140
NCR: Noel Ashmore

Auswide Panel Services Pty Ltd

Ringwood VIC 3134
NCR: Tony Au

Lilydale Automatics Pty Ltd

NCR: Dominic Deltondo
Lilydale VIC 3140

Nota Motors

Hallam VIC 3803
NCR: Aman Nota

West Gippsland Auto Electrics

Pakenham VIC 3810
NCR: Scott Webster

Mt Waverley Body Repairs Pty Ltd

Mount Waverley VIC 3149
NCR: Alan Ascough

Reminder: Workplace gender equality reporting

Organisations with 100 or more employees have until the end of May 2016 to report their gender data. The data required from these businesses must include new information about the number of employees exiting the workforce after taking parental leave.

This year the Workplace Gender Equality Act requires relevant employers to submit data about appointments, promotions and resignations by gender; including data on whether promotions and resignations involved managers or non-managers, and were for part-time, full-time, or casual positions; and to track the number of employees leaving the workforce after taking parental leave.

'Relevant Employers' under the Workplace Gender Equality Act means:

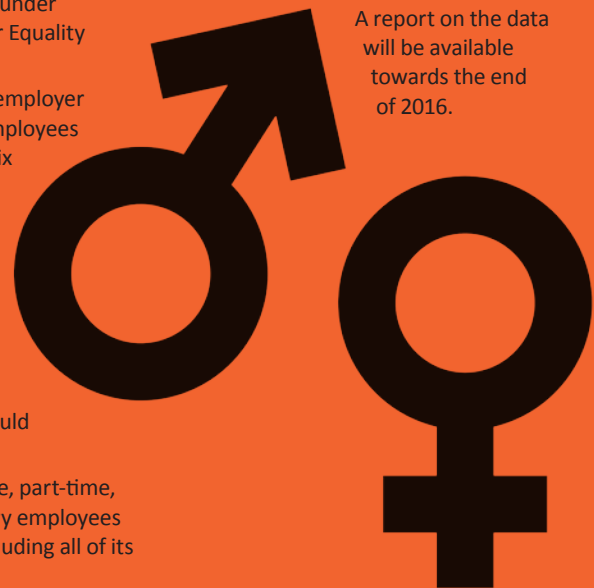
- a non-public sector employer with 100 or more employees in Australia for any six months or more of a reporting period (note: the six months do not have to be consecutive months and all employees (headcount, not full-time equivalent) should be counted)
- this includes full-time, part-time, casual and temporary employees of the employer (including all of its

subsidiaries employing employees in Australia). From 2016, independent contractors should not be including in the headcount.

- corporations which are part of a corporate group, the 100 or more employees' threshold is applied to the combined total of employees in Australia of the parent corporation plus the employees in Australia of any subsidiaries.

If a relevant employer has previously reported and its number of employees falls below 100, it must continue to report until employee numbers fall below 80 for six months or more of the particular reporting period. The six months do not have to be consecutive months.

A report on the data will be available towards the end of 2016.



Celebrate at the Victorian Automotive Industry's Gala Night as we recognise the achievements of our members.

Date: Saturday, 7 May 2016
Venue: Plaza Ballroom, Regent Theatre
Collins Street, Melbourne
Time: 6.30pm – midnight
Master of Ceremonies: Shane Jacobson
Entertainment: Chunky Jam
Dress: Black tie



Tickets to this gala evening cost \$165 per person or \$1,550 for tables of 10. Price includes canapés and drinks on arrival, three-course sit down dinner, beer, wine, soft drinks and entertainment.

Book your tickets now! Visit vacc.com.au/events or call 03 9829 1222

Divisional accredited applications

The following applications have been received for VACC Divisional Accreditation: DC: Divisional Contact

Automobile Repairers Division

All Types Automotive P/L
Reservoir, VIC 3073
Robert Santopietro

Autoline Service Centre
Briar Hill, VIC, 3088
Christopher Hartley

Frankies Garage
Preston, VIC, 3012
Frank Rocca

Bob Watson Service Centre
Hawthorn East, VIC, 3123
Adam Roberts

Moving Motors Pty Ltd
Tullamarine, VIC, 3043
Ninos Jajiw

777 Automotive
Albury NSW 2640
Phil Bullivant

Essendon Volkswagen
Essendon Fields, VIC, 3041
David Longmire

This list is produced for VACC Membership application processing only and is not to be used for any other purpose.

Members wishing to lodge an objection to any of these applications for accredited membership must do so in writing within ten days of publication to: The Executive Director, VACC House, 464 St Kilda Road, Melbourne, VIC 3004.

Membership applications

The following applications have been received for VACC/TACC Membership: NCR: Nominated Chamber Representative



Ace Panel Worx Pty Ltd
Ace Panel Worx
Ararat VIC 3377
NCR: Luke Preston

Cheap Mobile Auto Electrician Pty Ltd
Cheap Mobile Auto Electrician
Narre Warren South VIC 3805
NCR: Abdul Yari

Complete Auto Works Pty Ltd
Complete Auto Works
Melton VIC 3337
NCR: Daniel Cardona

Rynett Pty Ltd
Cowes Total Car Care
Cowes VIC 3922
NCR: Greg Nettle

Total Trends Auto Pty Ltd
Crown Tyres & Auto Care
Dandenong VIC 3175
NCR: Ruwan Hettiarachchi

Dandy Smash Repairs Pty Ltd
Dandy Smash Repairs Pty Ltd
Dandenong VIC 3175
NCR: Daniel Inati

Fleetline Automotive
Fleetline Automotive
Cheltenham VIC 3192
NCR: Danny Guilmartin

Greg David Coghill
GDC Mechanical
Wodonga VIC 3690
NCR: Greg Coghill

PH Timmermans
Hastings Service Centre
Hastings VIC 3915
NCR: Peter Timmermans

Andrew Manley
Manley Mechanical
North Geelong VIC 3215
NCR: Andrew Manley

PMA Automotive
PMA Automotive
Ringwood VIC 3134
NCR: Thanh Nguyen

Vararis Family Trust
Reserve Road Panels Pty Ltd
Cheltenham VIC 3192
NCR: Nick Varvaris

A.L Bastin & D Grand-Court
Rival Prestige Panel & Paint
Bairnsdale VIC 3875
NCR: Dion Grand-Court

Joshua James Ilivan
Sullyz Auto Electrical
Maryborough VIC 3465
NCR: Joshua Sullivan

Zachiz Pty Ltd Mechanical Services
Zachiz Pty Ltd
Mechanical Services
Shepparton VIC 3630
NCR: Tom Stojanovski

Benjamin James Rakusz
Macedon Ranges 4X4
Woodend VIC 3442
NCR: Benjamin James Rakusz

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Unique Garage Shearwater Pty Ltd
Unique Garage
Shearwater TAS 7307
NCR: Craig Martin

Cane Family Trust
United Sandy Bay
Sandy Bay TAS 7005
NCR: Nick Cane

Zenio Michele Mazzucca
ZenTek Performance Automotive
Glenorchy TAS 7010
NCR: Zenio Mazzucca

These Applications have been received for TACC membership. Members wishing to lodge an objection to these applications for Chamber membership must do so within ten days from the date of publication in the September issue of 'Update' and forward it to The General Manager, TACC, PO Box 25, Moonah TAS 7009.



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- Add value to your brand and provide a competitive edge to your business
- Your customer is towed back to you - work you may have missed out on

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