

Master Builders Australia

Submission to the House of Representatives  
Standing Committee on Economics Inquiry into  
Home Ownership in Australia

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## 1 Introduction

Master Builders Australia is the nation's peak building and construction industry association which was federated on a national basis in 1890. Master Builders Australia's members are the Master Builder state and territory Associations. Over 125 years the movement has grown to over 33,000 businesses nationwide, including the top 100 construction companies. Master Builders is the only industry association that represents all three sectors, residential, commercial and engineering construction.

The building and construction industry is a major driver of the Australian economy and makes a major contribution to the generation of wealth and the welfare of the community, particularly through the provision of shelter. At the same time, the wellbeing of the building and construction industry is closely linked to the general state of the domestic economy.

## 2 Overview

- 2.1 Housing affordability, and access to affordable housing, remain a serious economic and public policy challenge in Australia for both the private and the public/social housing sectors.
- 2.2 Of particular concern is the high level of housing (un)affordability in Australia, and the national housing supply shortfall (supply falling behind demand) which Master Builders estimates has risen to more than 107,000 dwellings
- 2.3 The primary policy challenge for the Federal, State, Territory and Local Governments around Australia is, in the first instance, to facilitate an efficient Australian housing market.
- 2.4 An efficient housing market would have a number of features, including:
  - a supply-side which is responsive to changes in demand-side drivers;
  - one not burdened by distortions to market prices (the principal method by which housing demand signals are transmitted to housing suppliers);
  - regulatory, as well as subsidy and taxation interventions, which distort and reduce the efficient operation of the housing market, are minimal, transparent and based on sound economic principles; and,

- where governments and other regulators wish to achieve social and other policy objectives in the housing sector, these outcomes be pursued through directly relevant policy instruments and in a manner which has the least possible distortionary impact on the housing market.
- 2.5 Investor housing plays an important role in the supply of new residential dwellings in Australia.
- 2.5.1 Investor housing likely accounted for more than 30 per cent of spending on new residential construction, on average, annually between 1985 and 2012.
- 2.5.2 Looked at another way, by the early 2010s, housing investors were likely to account for the provision of around 2.9 million residential dwellings in Australia, accommodating some 7.3 million people.
- 2.5.3 Investors in 'negative geared' dwellings likely accounted for just over 1.9 million residential dwellings, accommodating some 4.8 million people.
- 2.6 Absent the housing stock provided by housing investors, it is not clear where these people would find residential dwellings to live in – public- and social-housing almost certainly could not meet such demand.
- 2.7 Master Builders recognises the importance of affordable housing for lower income earners/households.

### 3 Key Recommendations

- 3.1 The primary policy challenge for the Federal, State, Territory and Local Governments around Australia is, in the first instance, to facilitate an efficient Australian housing market.
- 3.2 Against this background, Master Builders calls for concerted and sustained action by all tiers of government, including (but not limited to):
- The Council of Australian Governments (COAG) and the Federal Government in particular, developing and reporting on key performance indicators for housing market efficiency (see Section 7, on an Efficient Housing Market, and Section 11, on Competition Payments, for further discussion);

- the Federal Government in conjunction with the State and Territory Governments, publishing annually a stocktake of the approaches to developer/infrastructure charges used by all State, Territory and Local Governments in Australia (see Section 7, on an Efficient Housing Market);
- Federal, State and Territory Governments stepping up their commitment to deliver substantive outcomes which raise labour productivity growth rates, such as improving the outcomes from, and returns to, skills education and training, particular in areas of existing and expected skills shortages (see Section 7, on an Efficient Housing Market);
- all Local Governments in Australia develop individual Land Release Plans which identify and provide an indicative forward schedule of ‘brownfield’ and ‘greenfield’ land over a rolling 10 year-ahead time horizon which could progressively be made available for residential housing development (see, Section 6, on Housing Affordability);
- Federal, State and Territory Governments delivering a national uniform and enforceable building code and regulatory system (see Section 9, on Regulation);
- the Federal Department of Industry compiling and reporting on its website by the end of 2015/16 (with annual updates thereafter) a definitive and exhaustive list of all State, Territory and Local Government variations from the National Construction Code (NCC) (see Section 9, on Regulation);
- the Australian Building Codes Board (ABCB) be directed by the relevant Minister(s) that standards or the like promoted or developed by third parties imported into Federal Government regulation be required to meet, as minimum, the performance thresholds set down in “The Australian Government Guide to Regulation” (see Section 9, on Regulation);
- Federal, State and Territory Governments, as a first step, honour their commitment to abolish certain taxes made in the 1999 Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations, which have still not been acquitted more than a decade later (see Section 6, on Housing Affordability, and also Section 10, on Taxation).

- recognising it would be premature to unsettle existing taxation arrangements relating to ‘negative gearing’ before concrete action is taken to address wider problems of housing affordability and supply (see Section 10, on Taxation);
- the Federal Treasurer directing the Australian Taxation Office (ATO) to establish a Government-Industry Working Party to implement by the end of 2015 the proposed system of statutory registration for independent contractors, and advance the necessary changes in federal law, regulation and/or administration (see Section 9, on Regulation);
- the Productivity Commission (PC) produce an annual Report on *Local Government Services (ROLGS)* given its potential to increase the performance efficiency of local governments (see Section 11, on Competition Payments);
- building on the proposed ROLGS, the introduction of contestable national competition payments (NCP) for demonstrable improvements in performance efficiency of local governments (see Section 11, on Competition Payments); and,
- the overhaul of the National Affordable Housing Agreement (NAHA), with a new framework which sets down outcomes, roles and responsibilities, performance indicators and metrics, and timelines for meaningful action to reduce, if not eliminate, government-sourced impediments to improved housing affordability (see Section 12, on Social Housing).

## 4 Terms of Reference

4.1 The House of Representatives Standing Committee on Economics has initiated a public inquiry into home ownership in Australia.

4.2 Key terms of reference for the inquiry include:

- current rates of home ownership;
- demand and supply drivers in the housing market;
- the proportion of investment housing relative to owner-occupied housing;

- the impact of current tax policy at all levels; and,
- opportunities for reform.

4.3 This submission addresses these and other key issues impacting home ownership in Australia.

## 5 Previous Inquiries

5.1 Master Builders' notes there have been a number of important inquiries and reviews into barriers to home ownership and housing affordability challenges over the past few years.

5.2 Three of the most prominent of these inquiries/reviews were:

- the Senate Select Committee Inquiry into Housing Affordability in Australia (conducted during 2008);
- the Housing Supply and Affordability Report (HSAR) prepared for COAG (delivered in 2012); and,
- the Senate Economics References Committee Inquiry into "The Australian Housing Affordability Challenge" (published in 2015).

5.3 The Federal Parliament conducted an inquiry into barriers to home ownership in Australia during the 2008-10 Parliament.

5.4 The inquiry was undertaken by the Senate Select Committee on Housing Affordability in Australia, and published its final report in June 2008 (Parliament of Australia, 2008).

5.5 Key terms of reference for the inquiry were considerations of:

- the taxes and levies imposed by state and territory governments;
- the rate of release of new land by state and territory governments;
- proposed assistance for first home owners by Federal, State and Territory Governments, and their effectiveness in the absence of increased supply;
- the role of all levels of government in facilitating affordable home ownership;



- the effect on the market of government intervention in the housing sector, including planning and industrial relations laws;
- the role of financial institutions in home lending; and,
- the contribution of home ownership to retirement incomes.

5.6 Master Builders made an expansive submission to this inquiry (Master Builders, 2008). The main themes emphasised by Master Builders in that submission include:

- Australia has suffered for more than a decade from policy neglect by all levels of government;
- there was an urgent need to develop a unified national strategy to combat the crisis in housing affordability; and,
- the critical policy priority must be to deal with the problem of the lack of housing supply.

5.7 As such, the policy must adopt a 'supply side first' response.

5.8 The appropriate policy response involves a package of meaningful reforms which must include:

- improved land release programs (with greater roles for market signals), and planning approvals processes;
- a review of developer (also known as infrastructure) charges, with increased funding for such infrastructure from general revenue sources; and,
- the replacement of stamp duties with less distorting taxes.

5.9 The Senate Select Committee in its final report made a number of important findings, including:

- there is a significant housing affordability problem in Australia;
- housing affordability pressures impact both prospective home buyers and renters;

- housing affordability pressures reflect the interaction of strong demand and limited supply; and,
- the shortfall in housing supply reflects three key factors, namely:
  - (i) planning processes at State and Local Government levels are too complex, too costly, too lengthy in time and frequently too uncertain, which in turn impede land release and add to the cost of housing supply which is ultimately borne by the home buyer;
  - (ii) developer/infrastructure charges can be excessive and act to restrict supply; and,
  - (iii) there is a shortage of skilled labour in the construction industry, which is likely to prevent the industry from meeting projected housing and other building and construction demands.
- Stamp duties are inefficient taxes, a burden on home buyers and discourage people from relocating to more appropriate housing types (eg ‘upsizing’ or ‘downsizing’) as their needs change (eg family growth or retirement by ‘empty nesters’); and,
- the housing affordability problem is essentially structural, rather than cyclical, meaning policy responses must include longer term solutions, one of which is encouraging regional decentralisation/development.

5.10 The HSAR provided to COAG (COAG, 2012) made findings which largely echoed those of the Senate Select Committee report:

- an indicator of government failure in delivering meaningful progress in the intervening period in actioning barriers to improving housing affordability in Australia.

5.11 Key findings of the HSAR include:

- builders and property developers face significant delays, uncertain time frames and unpredictable regulatory burdens in supplying new land and housing to the market place, which in turn add to the costs of housing supply;

- planning approvals processes imposed by State and Local Governments add to housing supply costs, and so reducing housing supply and overall housing affordability;
- infrastructure provision charges imposed on property developers lacked consistency, transparency and predictability. Where such imposts are applied they should be efficient, transparent, accountable, predictable and equitable;
- government housing programs should be reformed to improve housing affordability for low income households and the effectiveness of such programs for those in greatest housing need; and,

*“... (delivering) reforms that remove impediments to housing supply will remove unwarranted pressure on house prices and ensure that the quantity, location and type of housing stock meets the community’s needs over time.”*

*“Improving the responsiveness of the housing supply chain can also enhance other factors that contribute to community well-being, such as increasing labour mobility.” (at page 3).*

5.12 The Senate Economics References Committee also undertook an expansive inquiry into barriers and potential reforms to improving housing affordability, and the supply of affordable housing for lower to middle income earners (Parliament of Australia, 2015).

5.13 Key amongst the terms of reference for the inquiry were the:

- impact of government policies designed to encourage home ownership and residential property investment;
- effects of taxes and levies imposed by all tiers of government on housing demand and supply;
- regulatory frameworks and regimes (in particular relating to planning) likely to influence housing supply and demand;
- role and function of governmental rental assistance programs; and,
- impediments to increasing the supply of affordable housing, especially in the public, social and community housing sectors.

5.14 Master Builders made an expansive submission to this inquiry (Master Builders, 2014). In that submission, Master Builders emphasised the need for Federal, State/Territory and Local Governments, working together, to commit to and deliver, a bold and comprehensive National Housing Affordability Agenda (NHAA).

5.15 Key elements of this NHAA would include:

- tangible outcomes in improving the efficiency, and the supply-side efficiency in particular, of the Australian housing market;
- local governments to develop individual Land Release Plans, and associated marketing strategies, for their own jurisdictions over a ten year ahead rolling time horizon;
- the realisation of a genuine, rigorous, enforceable, transparent and uniform building code and regulatory system;
- a review of the impact of stamp duties on residential property, and alternate approaches to revenue-raising;
- the annual publication of a rigorous stocktake of the approaches to developer/infrastructure charges by all local governments in Australia; and,
- commitments by all governments to deliver substantive outcomes which will raise labour productivity growth rates, including greater flexibility in labour markets emphasising genuine enterprise bargaining.

5.16 The Committee, in its final report, made a number of important findings, including:

- high rates of home ownership provide broader economic and social benefits to the Australian community;
- it is becoming increasingly difficult for a growing proportion of the Australian population to secure affordable housing;
- a central driver of the decline in housing affordability is the failure of supply to keep pace with demand in the housing market;

- policy interventions which stimulate housing demand, absent action on supply-side constraints, risk exacerbating housing (un)affordability pressures;
- governments need to review and reinvigorate their suite of Federal-State/Territory housing agreements; and,
- housing (un)affordability pressures have spill-over effects into the supply of affordable housing for lower income earners, and those in need of social housing support.

5.17 A review of these three reports alone sends several key messages:

- there have been sufficient reviews of the housing affordability problem;
- these reviews have proposed sensible agendas for constructive reforms, which will help eliminate the barriers to housing supply and through this channel reduce housing unaffordability pressures; and,
- the conduct of yet another review into housing affordability (and its derivative, affordable housing) points to government failure in taking sufficient concrete action to tackle the structural impediments to improved housing supply, and housing market efficiency.

## 6 Housing Affordability

6.1 Master Builders welcomes the clear recognition by the Federal Government of the ongoing problem of housing (un)affordability across all Australian capital cities, and a growing number of regional growth areas.

6.2 Home ownership and the adequate supply of a diverse range of housing are integral parts of Australia's social fabric.

6.3 Australia has one of the highest rates of home-ownership in the world. More than two-thirds of Australians currently own or are in the process of buying their own home.

6.4 The high rate of home ownership and strong public policy commitment over many years by governments of both major political persuasions to home ownership has enriched Australia both in economic and social terms.

- 6.5 Ensuring affordable housing is available for all Australians must remain a key policy objective for all governments.
- 6.6 A number of factors have led to a worsening of housing affordability, including:
- shortages of available land and inefficient land release strategies;
  - infrastructure costs being loaded onto developers and in turn passed on to home owners;
  - excessive infrastructure specifications in subdivisions;
  - excessive development levies, taxes and charges imposed by State and Territory governments;
  - excessive planning and building requirements;
  - regulatory creep pushing codes and standards higher than required; and,
  - un-coordinated local and state government environmental regulations.
- 6.7 Master Builders estimates the national housing supply shortfall (supply falling behind demand) has risen to more than 107,000 dwellings, which in turn contributes to housing affordability pressures.
- 6.8 Master Builders calls on the Federal Government, through a reinvigorated COAG, to commit to, and deliver upon our NHAA, key elements of which include:
- tangible outcomes in improving the efficiency, and the supply-side efficiency in particular, of the Australian housing market;
  - annual publication by the Federal Department of Industry on its website of a rigorous and transparent stocktake of approaches to developer/infrastructure charges by all local governments in Australia.
    - (i) The stocktake would examine the nature, the processes involved and the incidence of the charges imposed on ‘brownfields’ and ‘greenfields’ (both fringe and infill) developments for a normalised set of developments;

- streamlined and simplified development approvals processes, achieved through, inter alia, greater reliance on code-based assessment, identification of best practice development approval procedures amongst State, Territory and local governments, as well as expanded use of performance monitoring and benchmarking;
- local governments to develop and promulgate individual realisable Land Release Plans for their own jurisdictions over a ten year rolling time horizon.
  - (i) These Plans would, inter alia, identify specific tracts of land within own-jurisdictions, set down timelines for their prospective availability for residential development, any regulatory or other requirements which may impede the land release process, generally and for specific tracts of land, and nominate those tracts which would be 'development-ready' within five years;
- the realisation of a genuine, rigorous, enforceable and uniform building code and regulatory system to ensure the development and continuation of an efficient and competitive building industry.
  - (i) The COAG members should also continue to play an active leadership role in the ongoing development and refinement of the National Construction Code (NCC) as the central document specifying a national set of building requirements;
  - (ii) ensuring the State and Territory Governments honour an existing, long overdue commitment to abolish stamp duties on business conveyances of real property. This would be followed by a rigorous review of the impact of stamp duty on residential property, and alternate approaches to revenue-raising.

6.9 In the medium to long term, committing to such a NHAA by removing or ameliorating structural legislative, regulatory and fiscal impediments will deliver meaningful improvements to housing supply, housing affordability and access to affordable housing. In other words, there is a structural dividend to be gained.

## 7 An Efficient Housing Market

7.1 The primary policy challenge for the Federal, State, Territory and Local Governments around Australia is in the first instance to facilitate an efficient Australian housing market.

7.2 An efficient housing market would have a number of features, including:

- a supply-side which is responsive to changes in demand-side drivers;
- one not burdened by distortions to market prices (the principal method by which housing demand signals are transmitted to housing suppliers);
- regulatory, as well as subsidy and taxation interventions, which distort and reduce the efficient operation of the housing market, are minimal, transparent and based on sound economic principles; and,
- where governments and other regulators wish to achieve social and other policy objectives in the housing sector, these outcomes be pursued through directly relevant policy instruments and in a manner which has the least possible distortionary impact on the housing market.

7.3 COAG, and the Federal Government in particular, should develop and report on key performance indicators for housing market efficiency:

- The PC should develop, and publish annual updates of, the housing market efficiency performance indicators; and
- engaging with other, and third party agencies in government and the private sector to progress this work to ensure its depth and relevance for housing policy-makers and those in housing market practice.

7.4 All Local Governments in Australia develop individual Land Release Plans which identify and provide an indicative forward schedule of 'brownfield' and 'greenfield' land over a rolling 10 year-ahead time horizon which could progressively be made available for residential housing development.

7.4.1 These Land Release Plans would, inter alia, identify specific tracts of land within own-jurisdictions, set down timelines for their prospective availability for residential development, any regulatory or other



requirements which may impede the land release process, generally and for specific tracts of land, and nominate those tracts which would be 'development-ready' within five years; and,

7.4.2 the respective State/Territory Governments would be required to subject these Land Release Plans to competitive benchmarking and other performance evaluations, whom in turn would be subject to benchmarking and evaluation by the PC as part of the regular Report on Government Services (ROGS) processes.

7.5 The Federal, State and Territory Governments deliver a national uniform and enforceable building code and regulatory system to ensure the development and continuation of an efficient and competitive building industry which;

- continues to play an active leadership role in the ongoing development and refinement of the Building Code of Australia (BCA) as the central document that specifies a national set of building requirements consistently across Australia; and,
- work to change the current system to introduce further controls on local governments so they no longer have a free hand to add new regulations and conditions on buildings that hinder development and inflate costs, and raise house prices and reduce housing affordability.
- Federal, State and Territory Governments, as a first step, honour their commitment to abolish certain taxes made in the 1999 Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations, which have still not been acquitted more than a decade later.

7.5.1 This should be followed by a rigorous review of the impact of key taxes, such as stamp duty on residential property, and alternate approaches to revenue-raising.

7.6 The Federal Government in conjunction with the State and Territory Governments, prepare and publish annually a stocktake of the approaches to developer/infrastructure charges used by all State, Territory and Local Governments in Australia.

7.6.1 The stocktake would examine, inter alia, the nature, the processes involved and the incidence of the developer/infrastructure charges

imposed on 'brownfields' and 'greenfields' (both fringe and infill) developments for a normalised set of developments (for example, four bedroom, two bathroom detached dwelling; a twelve unit apartment block).

7.6.2 Over time, this work be integrated into the PC's annual ROGS processes, to enable existing and prospective home owners, and the residential construction industry, to engage in competitive benchmarking of local governments across the nation.

7.7 Federal, State and Territory Governments step up their commitment to deliver substantive outcomes which raise labour productivity growth rates, such as:

- greater flexibility of labour markets, emphasising genuine enterprise bargaining;
- improve the outcomes from, and returns to, skills education and training, particular in areas of existing and expected skills shortages;
- reducing the income tax burden borne by wage and salary earners, through further increases in tax thresholds and reductions in marginal tax rates, and the introduction of full tax indexation;
- reducing the labour taxes imposed on employers, such as payroll tax, as well as broader reform of the business tax system; and,
- the elimination of inefficient regulations which distort market signals, through regular, rigorous and transparent regulatory impact assessment processes.

## 8 Investor-Supplied Housing

8.1 Investor housing plays an important role in the supply of new residential dwellings in Australia.

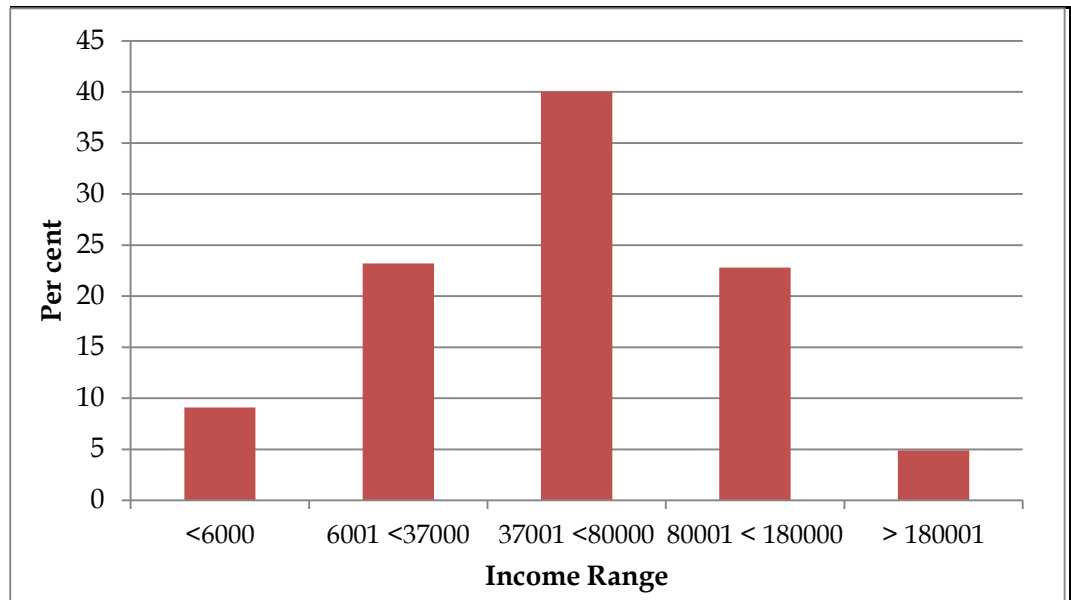
8.2 Investor housing likely accounted for more than 30 per cent of spending on new residential construction, on average, annually between 1985 and 2012.

8.3 Looked at another way, by the early 2010s, housing investors were likely to account for the provision of around 2.9 million residential dwellings in Australia, accommodating some 7.3 million people.

- 8.4 Investors in ‘negatively geared’ dwellings likely accounted for just over 1.9 million residential dwellings, accommodating some 4.8 million people.
- 8.5 Absent the housing stock provided by housing investors, it is not clear where these people would find residential dwellings to live in – public- and social-housing almost certainly could not meet such demand.
- 8.6 In the 2010/11 financial (tax) year (ATO, 2013), just over 1.8 million Australian personal income taxpayers reported net rental income from investment properties:
- of these people, 1.2 million (or around two-thirds) were ‘negative geared’, that is had negative net income from rental properties; while
  - the other 0.6 million (or one-third) were ‘positively geared’, that is had positive net income from rental properties.
- 8.7 (‘Negative gearing’ is a situation where an asset owner incurs costs, in excess of the income, associated with holding that asset, with the difference (the ‘loss’) being claimed against other tax-assessable income.)
- 8.8 Successive Australian Governments of both political persuasions have encouraged investors to add to housing supply through provision of ‘negative gearing’, with the exception of a brief period under Hawke/Keating Governments in the 1985-1987 tax years when such support was withdrawn (but subsequently re-instated).
- 8.9 The tax treatment of investment housing potentially an important consideration for housing investors, with ‘negative gearing’ likely to induce higher-than-otherwise investor spending on new housing supply
- 8.10 Contrary to the claims by some critics of ‘negative gearing’ (for whatever motivation), ‘negative gearing’ is not a ‘rich persons game’ – that is, the exclusive, even dominant domain of high income earners.

- 8.11 Rather, recourse to ‘negative gearing’ appears to be part of a broader retirement incomes/life cycle investment strategy by middle Australia(ns), as can be seen in Graph 8.1 following (ATO, 2013).

**Graph 8.1 Incidence of Negative Gearing**



- 8.12 As can be seen in Graph 8.1, some 40 per cent of Australian taxpayers claiming negative net income from rental properties in the 2010/11 financial year fell into the ‘middle income’ bracket of between \$37,001 and \$80,000 per annum, with another 23 per cent being the lower-middle income bracket of between \$6,001 to \$37,000 per annum.
- 8.13 By contrast, a mere 5 per cent of taxpayers claiming negative net income from rental properties in that financial year fell into the ‘high income’ bracket – that is, persons earning more than \$180,000 per annum.
- 8.14 As such, any ill-considered action to wind-back, let alone eliminate, ‘negative gearing’ would amount to an ‘assault on the frugal middle class Australian’, rather than the ‘rich’ as some may claim.

## 9 Regulation

- 9.1 Master Builders attaches high priority to accelerating, broadening and deepening regulatory review, reform and reduction (4R) efforts by all tiers of government in Australia.

- 9.2 This commitment reflects several important factors, most notably:
- the building and construction industry is one of the most intensely regulated industries in Australia, with legislation and regulation imposed by all three levels of Government;
  - unnecessary and/or inefficient regulation shackles the industry with ‘red’ and ‘green’ tape burdens sapping entrepreneurial effort and productivity; and,
  - ‘red’ and ‘green’ tape impacts on all business, large and small, as well as consumers who have to pay the higher costs of building homes and community infrastructure.
- 9.3 Master Builders has an active 4R program of work focusing around three broad areas:
- State/Territory and Local Government variations to the NCC;
  - the differential classification and treatment of employees and independent sub-contractors; and,
  - wider application of the “Australian Government Guide to Regulation”, both to State/Territory and Local Governments, and to private sector entities which create regulations or similar instruments.
- 9.4 Of particular irritation is the sizeable (and growing) number of variations to the (supposedly) uniform NCC by State/Territory, but more significantly, Local Governments around the nation.
- 9.5 Such variations add to uncertainty in regulatory compliance for builders, and add to the costs of construction which are reflected in higher-than-otherwise dwelling prices (and thus further impeding housing affordability), and costs of supply for key economic and social infrastructure (for example, schools, aged care facilities and hospitals).
- 9.6 Master Builders recommends the Federal Department of Industry be charged with compiling and reporting on its website by the end of 2015/16 (with annual updates thereafter) a definitive and exhaustive list of all State, Territory and Local Government variations from the NCC.

- 9.7 In the short term, such a listing would promote greater transparency and competitive benchmarking of the incidence and impact, as well as acting as the platform for subsequent program of work in reviewing, rationalising and potentially eliminating, such variations.
- 9.8 Secondly, Master Builders remains concerned at the ongoing, and very serious, problem of the differential classification and treatment of employees and independent sub-contractors between and within jurisdictions in Australia. In the federal domain, this problem is particularly onerous under industrial relations and taxation law.
- 9.9 The status and treatment of employees versus sub-contractors under federal law is a significant issue for the building and construction industry given these people, whether professionals such as architects, engineers or the like, or tradespeople, such as electricians, plumbers, concreters or the like, are critical to driving efficiency and productivity in the building and construction industry.
- 9.10 Master Builders proposes a practical and workable solution, centred on a system of statutory registration, administered by the ATO, for those who choose to operate as an independent contractor.
- 9.11 Under our approach, persons looking to register for independent contractor status would be subject to a single set of tests, recognised across agencies and jurisdictions which reflect the operation and conduct of a modern building sector. The tests would also establish clear separation between commercial law which should govern independent contractors, and workplace relations law which should govern employers and employees.
- 9.12 Master Builders recommends the Treasurer direct the ATO to establish a Government-Industry Working Party to implement by the end of 2015 the proposed system of statutory registration for independent contractors, and advance the necessary changes in federal law, regulation and/or administration.
- 9.13 Thirdly, while Master Builders sees merit-in-principle in the privatisation of the regulatory process, through organisations such as Standards Australia, this must not come at the expense of analytical rigor in the development and evaluation of the instruments thus created.

- 9.14 Subject to its comprehensive and effective implementation across all departments/agencies of the Australian Government, the “Australian Government Guide to Regulation” has the potential to dramatically overhaul the processes by which regulations are created and reviewed, and administered, and in time make a significant contribution to reducing the burden of regulatory compliance carried by business, and especially small business.
- 9.15 Master Builders welcomes, in particular, the presumption against regulation, the need for regulators to consider alternatives to regulatory interventions, greater use and rigor in preparing high-quality cost/benefit and regulatory impact analyses, and increased transparency in the regulation development/ review processes.
- 9.16 Of specific importance to the building and construction industry is the obligation for Federal Government departments/agencies using standards created by third parties, such as Standards Australia, to ensure these instruments meet the Regulatory Impact Statement (RIS) requirements set down in the Guide.
- 9.17 This new threshold for the inclusion of third party standards or performance requirements into Federal regulations is significant for the building and construction industry, given the expansive practice of the ABCB of importing Australian Standards into the NCC.
- 9.18 At the very least, this must include rigorous and transparent Preliminary Impact Analyses (PIA), Cost/Benefit Analyses (CBA) and RIS for each and every third party instrument adopted or imported into federal legislation or regulation.
- 9.19 To ensure third party instruments remain relevant to current practices, and do not unnecessarily impede innovation and change in future practices, such instruments where adopted or imported in to federal legislation or regulation should be subject to mandatory, defined (preferably not more than five year) sunset provisions.

Master Builders recommends the ABCB be directed by the relevant Minister(s) that standards or the like promoted or developed by third parties imported into federal government regulation be required to meet, as minimum, the performance thresholds set down in “The Australian Government Guide to Regulation”.

## 10 Taxation

- 10.1 The building and construction sector is one of the most intensely taxed in Australia, and bears a direct and indirect tax burden from all levels of government — Federal, State and Territory, and Local.
- 10.2 This high and onerous tax burden distorts investment decisions, discourages entrepreneurship and innovation, reduces business investment and employment opportunities, and diverts scarce resources into unproductive and unnecessarily costly tax compliance within a key sector of the Australian economy.
- 10.3 These impacts, in turn, reduce housing affordability, increase housing stress and add to the fiscal burden on governments for housing assistance.
- 10.4 Master Builders believes a holistic approach to tax reform is essential. Measures must not be considered in isolation or as single issue trade-offs. Rather, the tax “blueprint” must be a comprehensive, detailed, and specific package that allows zero “wriggle room” in terms of execution.
- 10.5 Master Builders’ high level tax reform priorities call for:
- a comprehensive review of the narrow GST base;
  - any increase in the GST rate must not be undertaken without first effecting comprehensive tax reform;
  - reducing the company tax rate to 25 per cent;
  - reducing the differential between the higher marginal personal income tax rates and the company tax rate;
  - simplifying tax compliance, especially for small business to free up entrepreneurial energies for more productive purposes, such as generating investment, employment and productivity;
  - retaining the tax exempt status of home ownership and negative gearing;
  - providing incentives for the removal of inefficient state taxes including infrastructure taxes, charges and levies; and,



- introducing a reducing, stepped rate of capital gains tax.
- 10.6 The current Federal Government has initiated a process which will lead, most likely in early to mid-2016, to the release of a White Paper on Taxation Reform (or the like).
- 10.7 A key first step in this process was the release, in March 2015, of a Tax Discussion Paper (TDP; Australian Government, 2015), to promote informed public discussion of a range of taxation reform issues, including what is colloquially known as ‘negative gearing’.
- 10.8 The TDP makes a number of sensible observations about the operation of ‘negative gearing’ within the Australian taxation system. These include:
- the tax treatment of investment in real estate is the same as that for investment in any other asset which produces current incomes and capital gains;
  - many of the reasons people invest in residential property rather than other assets have little to do with taxation;
  - negative gearing of itself does not cause a tax distortion;
  - negative gearing allows more people to enter the asset market (for example, residential property) than would otherwise be the case (for example, if they relied on equity funding alone);
  - negative gearing promotes consistency of treatment between debt and equity funding (through its treatment of interest expenses); and,
  - any taxation advantages for individuals investing in residential property does not come from borrowing (that is, negative gearing) but rather from the tax treatment of any capital gains on the asset concerned.
- 10.9 The landmark Henry Report (Australian Government, 2009) also examined the issue of the application of ‘negative gearing’ arrangements to housing supply and affordability, concluding (at page 418), inter alia:
- changing the taxation of investment properties could have an adverse impact in the short to medium term on the housing market; and,

- changes to the tax treatment of investment property should only be adopted following reforms to the supply of housing (for example, land release policies).

10.10 Taken as a whole, the Henry Report concluded (at page 420):

*“A range of other policies are likely to have a more significant impact on housing supply than tax settings.*

*The tax system is unlikely to be an effective instrument to move housing prices toward a particular desired level and the tax system is not the appropriate tool for addressing the impact of other policies on housing affordability.”*

10.11 Federal Government must provide certainty to investors in housing stock, of whatever form, on the tax treatment of such investments, in particular, the preservation of ‘negative gearing’ of residential housing stock.

10.12 Master Builders’ regards ‘negative gearing’ as a vital element for ensuring supply of more affordable residential housing for lower income earners and for those who elect to rent as a life-style choice.

10.13 Econometric modelling undertaken by Master Builders has estimated negative gearing accounts for:

- between 9 and 11 per cent of new housing supply each year, or
- more than 41,200 new dwellings in the 2014 and 2015 financial years, and
- homes for just over 104,000 people in those two years alone.

10.14 Without an effective ‘negative gearing’ arrangement, the supply of rental properties would be lower, and/or the rents charged for available rental properties would be higher.

10.15 Similarly, absent ‘negative gearing’ there would likely be substantial additional fiscal pressure on Federal, State/Territory and Local Governments to:

- directly provide public-rental housing (thus taking on a greater hands-on role as landlord); and/or,
- provide additional financial assistance to meet the higher (non-subsidised) housing costs carried by socially disadvantaged members of society.

- 10.16 Master Builders endorses the Henry Report’s conclusion it would be premature to unsettle existing taxation arrangements relating to ‘negative gearing’ before concrete action is taken to address wider problems of housing affordability and supply.

## 11 Competition Payments

- 11.1 The PC has since the mid-1990s produced an annual ROGS, which has facilitated greater transparency and more effective performance benchmarking of the delivery of goods and services by Federal, State and Territory Governments.
- 11.2 The primary purpose of the annual ROGS include:
- providing comparative information on the performance of a broad spectrum of government services; which in turn,
  - facilitates improved service delivery, efficiency and performance, and increasing accountability of service providers to governments and ultimately to taxpayers (who fund these services).
- 11.3 Master Builders advocates this valuable work be replicated in an annual ROLGS, also produced by the PC, given its potential to increase the performance efficiency of local governments, which in turn should be reflected in improvements in housing supply and affordability.
- 11.4 A ROLGS would allow Federal, State and Territory Governments, and taxpayers, who fund local governments to undertake results-, process- and best practice-benchmarking, which in turn will support more extensive and intensive assessments of the effectiveness and efficiency of local governments in delivering goods and services to their communities.
- 11.5 While there is potentially a wide range of performance indicators which could be applied to local government engagement in the housing supply and affordability domain, Master Builders generally prefers a smaller number of higher priority metrics (over a larger number of metrics of varying importance to industry and householders).

- 11.6 Master Builders would propose the following key performance metrics initially be collected and reported annually by all local government areas (LGAs) across Australia:
- median net and total time taken to process a DA (in days);
  - median net and total time taken to process the bottom quintile ('slowest' moving 20 per cent) of DAs (in days);
  - DAs processed through code/complying assessment pathways (number; and, as a proportion of DAs);
  - median total cost of a DA to the applicant (in current dollars, and as a proportion of the value of the relevant development);
  - proportion of DAs processed within applicable statutory timeframes (percentage); and,
  - proportion of DAs process subject to successful legal challenge by an applicant before a higher administrative or judicial authority (percentage).
- 11.7 Master Builders would also propose, building on the proposed ROLGS, the introduction of contestable national competition payments (NCP) for demonstrable improvements in performance efficiency of local governments – the NCP-LG initiative.
- 11.8 There are several key elements to the NCP-LG initiative: “contestable”, “demonstrable”; “improvements”; “performance efficiency”; and, “local governments”:
- “contestable” means the payments pool would be subject to effective competition – there would be no automatic guarantees of getting any payments merely for participating;
  - “demonstrable” means outcomes have to be delivered rather than just promised – there will be no upfront funding for promising to do something; only ex-poste payments for showing concrete outcomes;
  - “improvements” means delivering outcomes better than existed before or by just continuing along on a ‘business as usual’ basis;

- “additionality” means outcomes above and beyond what would otherwise have occurred - will be rewarded;
- “performance efficiency” means simpler, easier, faster, less costly processes which deliver on the key performance metrics against which ex poste payments will be made; and,
- “local governments” means each local government be evaluated – and where appropriate, rewarded – individually.

11.9 NCPs have been used successfully in the past to remove roadblocks to efficiency, largely at the State and Territory Government level.

11.10 Performance payments would be measured against a number of key metrics, namely those set down in Paragraph 8.6 above.

11.11 Funding for such payments could be taken from the current, wholly untied Financial Assistance Grants to Local Government (FAG-LG).

11.11.1 Master Builders sees merit in making a small proportion (say, 15 per cent) of these Grants being directed into a common ‘competition payments’ pool, which would then be used to reward better performing local governments, regardless of their location.

11.11.2 This ‘competition payments’ pool would total around \$345 Million in the 2015/16 financial year.

11.12 Funding for these national competition payments will be available in two tranches: base; and, superior payments.

11.12.1 Base funding will cover payments for those local governments whose performance against the key performance metrics shows a demonstrable improvement, but whose rate of improvement was not above the national average rate of improvement.

11.12.2 Superior funding will cover payments for those local governments whose performance against the key performance metrics shows a demonstrable improvement, and whose rate of improvement was greater than the national average rate of improvement.

- 11.13 As such, payments are likely to flow in three broad directions:
- firstly, non-performers (such as those who do not participate or whose performance does not improve) will get nothing (however, special consideration will need to be given to those local governments already operating at the frontier of best practice);
  - secondly, base performers will get a share (depending on the number of local governments which fall into this category) of the base pool; and,
  - thirdly, superior performers will get a share (depending on the number of local governments which fall into this category) of the superior pool, as well as a share of the base pool (as on the basis set out above).
- 11.14 In this initiative, Master Builders is simply proposing the expansion of an accepted principle and proven practice, and its application to local government.
- 11.15 Better local governments will no doubt see the contestable national competition style payments as an opportunity to lift their performance, and a potential benefit to their constituents, with the efficiency dividends being reflected in improved housing supply and affordability.

## 12 Social housing

- 12.1 An important feature of Australian society is a willingness to provide assistance to those in greatest, genuine need.
- 12.2 Social housing provides a roof-over-the-head for more than 397,000 – or about 4 per cent of - Australian households.
- 12.2.1 Of those households in social housing, around three-quarters (nearly 321,000 households) are in public housing, provided by Federal, State and/or Territory Governments, either through various financial support programs and/or as de facto landlords.
- 12.3 Master Builders accepts providing public housing is a challenging undertaking. However, taxpayers are entitled to see their taxes spent effectively and efficiently.
- 12.4 NAHA is a key mechanism for providing housing assistance to those in genuine housing need, and an important instrument of social policy in Australia.

- 12.5 However, NAHA is flawed by design. Traditionally, NAHA has been focused:
- on the ‘symptoms of the problem’ (namely the supply of affordable housing) rather than more properly; and,
  - on ‘the causes of the problem’ (namely meaningful action to improve housing affordability).
- 12.6 The better approach for NAHA (and/or its successors) must be to clear the roadblocks to improved housing affordability (especially those imposed by State, Territory and Local Governments), which will help to increase the supply and reduce the cost of housing, rather than providing government subsidies and other forms of assistance to try to offset unwarranted cost pressures on the supply and the price of housing.
- 12.7 To use a popular saying: NAHA puts the cart (affordable housing) before the horse (housing affordability).
- 12.8 Master Builders would like to see an overhaul of the NAHA through:
- the negotiation and adoption by COAG of a NHAA
  - that sets down, inter alia, outcomes, roles and responsibilities, performance indicators and metrics, and timelines for meaningful action to reduce, if not eliminate, government-sourced impediments to improved housing affordability,
  - building on the frameworks of Master Builders’ housing affordability reform agenda, discussed above, and COAG’s HSAR,
  - which over-arches specific, sub-ordinate agreements on improving the supply of housing for those in genuine need.
- 12.9 Master Builders’ supports the use of National Partnership Agreements (NPAs), in style, to implement key elements of the NAHA.
- 12.10 However, NPAs (like NAHA itself) are ‘second order’ elements of broader strategies to deal with the problems at hand.

12.11 Priority must be given to dealing with the primary causes of the underlying social policy problems, rather than just dealing with the symptoms of those problems.

12.12 Future NPAs (either by renegotiation of existing, or negotiation of new, instruments) should emphasise:

- the priority to be given to dealing with the underlying social problem of policy concern;
- the importance of clearly defined and measureable objectives and performance benchmarks; and,
- include competitive bid process, to improve value-for-money for taxpayers.

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