



**MASTER BUILDERS**  
A U S T R A L I A

Submission to the Treasury

# Employment White Paper

December 2022



## Master Builders Australia: Submission to the Employment White Paper

Master Builders Australia (Master Builders) welcomes the opportunity to contribute to the Employment White Paper.

Developing an informed and evidence-based roadmap for Australia to build a bigger, better-trained, and more productive workforce is critical to our nations ongoing success.

Improving productivity requires a multifaceted approach. Doing more with less is what will allow Australia to achieve better economic and societal outcomes.

Conditions that support business success, support higher levels of employment. Reducing the complexity and time spent by businesses on regulatory obligations and administrative tasks will free up time for the money-making part of business operation. 97.5 per cent of all Australian businesses are small, that is 0-19 employees – a small business that can do more work makes more revenue, pays more tax, employs more people and pays higher wages.

The Government's industrial relations reform agenda is sizeable, ambitious and once implemented will represent significant systemic change. Master Builders holds significant reservations that these reforms will deliver benefit to workplaces and questions if they may actually be contrary to the aims of the White Paper.

Adapting to the future of work and structural changes within the economy will require businesses and workers to embrace uncertainty, be flexible and engage in lifelong learning.

To meet future workforce needs the construction industry must ensure it is attractive to all workers regardless of their gender, age, or ethnicity.

Construction is a male dominated industry, but progress is being made. The gender pay gap is declining faster than average and the proportion of women in male dominated occupation groups is increasing.

To attract more workers to the trades and other vocational education and training (VET) pathways a National Partnership Agreement on Quality Careers Education is needed to ensure that career education in our schools is adequately funded, high quality, unbiased and up-to-date. In addition, quality indicators for VET qualifications and training providers need to be published so learners can make informed decisions about the pathway and Registered Training Organisation (RTO) that best meets their needs.

Work integrated learning pathways, such as apprenticeships, are well established and operate effectively in the construction sector. But, there is always room for improvement. For example, developing a work-readiness assessment tool will assist to identify apprentice candidates that may need additional support or training to achieve success.

Workforce mobility improves productivity by enabling the flow of workers to respond to the ups and downs of business and economic demand. Inconsistent state and territory licensing arrangement in the construction industry inhibit workforce mobility and need to be addressed.

Migration is a key policy lever available to address the widening workforce shortages being experienced in Australia. However, the complexity, expense and delays in our migration system are impeding its international competitiveness and reforms are needed to reset the balance.

## Section 1: Full employment, productivity, and higher wages

Conditions that support business success, support higher levels of employment.

Reducing the complexity and time spent by businesses on regulatory obligations and administrative tasks will free up time for the money-making part of business operation. A small business that can do more work makes more revenue, pays more tax, employs more people and pays higher wages.

To ease the regulatory burden on businesses unnecessary regulation needs to be repealed, technical jargon needs to be replaced with simple English, and Regulatory Impact Statements need to assess the cumulative burden of regulation on small business.

Embracing digital opportunities can assist businesses to streamline administrative tasks and reduce operating costs over the medium to longer term. Incentives are needed to assist small businesses, particularly those in less digital savvy sectors like construction, to harness digital opportunities and improve their digital skills.

When the economy is close to full employment, productivity tends to decline due to diminishing returns and the tendency for the most productive employees to have already been hired.

There can also be increased job movement as employees leverage the tight labour market to negotiate higher pay and conditions with a new employer. This increases the resources and time employers spend on recruitment, thereby reducing their productivity. And new employees take time to get up to speed on the requirements of a new job and the policies and procedures of the business, during which time they are not at their productive potential.

In some instances, however, full employment can drive productivity improvements. For example, in the absence of available workers businesses may opt to streamline processes or automate aspects of their business. If they can recruit new employees, these workers may bring fresh ideas and perspectives, which has the potential to improve productivity in the longer term.

Productivity is a critical component of any policy relating to full employment and wages growth. Without a requirement for productivity enhancements, the goals of full employment and wages growth contribute to spiralling inflationary pressures.

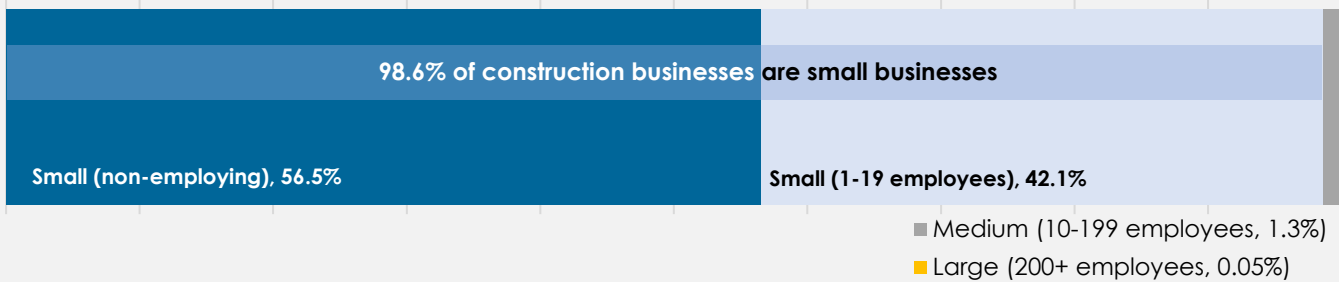
There is a balance that needs to be achieved and government policies should aim for this balance.

Fundamentally, you need employers to have employees. Conditions that support business success, support higher levels of employment.

## Supporting business productivity

The latest ABS figures for the end of June 2021 show that over five million workers were engaged in Australia's 2.34 million small businesses (less than 20 employees) – that's 97.5 per cent of all businesses in Australia. 16 per cent of these workers (793,000) and 17 per cent of these small businesses (405,128) are in the building and construction industry. Two-thirds of construction workers are engaged in small businesses, which make up 98.6 per cent of all businesses in the construction industry.

### Construction businesses by size, percentage, June 2021



Many small business operators, particularly in the construction industry, are great at their trade, but not so much when it comes to the regulatory and administrative side of running their business.

Solutions that simplify the complexity and time spent on regulatory obligations and administrative tasks free up time for the money-making part of business operation. A small business that can do more work makes more revenue, pays more tax, employs more people and pays higher wages.

### Regulatory requirements

Employment requirements, tax requirements, business registration, development and building control requirements and standards, as well as licensing and other regulatory requirements are complex and use inconsistent language. These requirements are on top of administrative tasks such as marketing, business planning and scheduling. While larger businesses have teams of people to look after their finance, human resources, legal, procurement, strategy, and marketing functions, small business owners do not – small business owners wear all these hats while also, and critically, needing to do the revenue raising component of their business.

**Business productivity, especially small business productivity, can be improved by simplifying regulatory requirements. Repealing unnecessary regulation, removing the technical jargon in favour of simple English, and ensuring Regulator Impact Statements assess the cumulative burden of regulation on small business will go a long way to freeing up some of the limited resources small businesses have.**

Additionally, in the building industry there are regulated Australian Standards that businesses must comply with under the National Construction Code (NCC). Businesses, however, cannot access these standards without a significant financial outlay, reducing access and ease of use. Regulated standards should be available free of charge.

**The less resources that are dedicated to regulatory activities the more resources – time, money and mental capacity – that are available for other business pursuits. This equals greater productivity.**

## **Embracing digital opportunities**

As businesses continue to struggle with cost pressures, workforce shortages and economic uncertainty, greater adoption and use of digital technologies has the potential to improve business systems, operational productivity and workplace tracking and communication, as well as reduce operating costs over the medium and longer term.

Businesses with fewer employees are typically time poor and undertake little or no assessment of their performance and overall management capability – a critical determinant in the adoption of best practice. Incentives are needed to assist small businesses to improve their management capability, harness digital opportunities and improve their digital skills.

**The support available for employees through the Technology Investment Boost and the Skills and Training Boost is welcomed. Productivity outcomes could be further enhanced by ensuring sole traders, partnerships and business owners are also eligible for these initiatives.**

There are more small businesses in construction than any other sector and as such it comes as little surprise that construction businesses lag when it comes to digital uptake and skills.

- Research by MYOB found that digitalisation has taken little or no hold in about 20 per cent of construction businesses. MYOB has also estimated that improving digitalisation amongst this cohort would provide a return on investment of around 25 to 1.
- In its 2021 Australian Infrastructure Plan report, Infrastructure Australia found that “the infrastructure and construction sector has one of the slowest adoption rates of technology, innovation and digitally supported ways of working.”
- According to the ABS, 45.4 per cent of businesses across the economy introduced innovation during 2020-21. However, the innovation rate for construction was just 31.9 per cent over the same period.

**Tailored interventions to improve digital skills and uptake should be considered for industries with a disproportionately large share of the economy’s small businesses, including construction.**

**Once established, the Construction and Property Industry Cluster should develop a targeted plan for investment in digital skills development in the construction industry.**

## **Supporting a productivity workforce**

Many of the mechanisms that enable the workforce to be more productive are the responsibility of the employer, for example, and as identified above, improving management capability and embracing digital solutions to streamline processes and improve communication.

To foster a driven, motivated and productive workforce that strives for excellence we need:

- Careers education that encourages people to identify their passions, aptitudes and skills and to match these to pathways and occupations.
- High quality vocational and higher education that prepare students with the skills and knowledge they need for current and emerging occupations, including employability skills and work integrated learning opportunities.
- Supportive workplaces that encourage inclusivity, lifelong learning and innovation.
- A workplace relations system that is simple, flexible, and works for the enterprise and the employee.

## Section 2: The future of work

The construction sector is the subject of substantial regulatory change that is changing building and construction methods with impacts on the future of work in construction. These changes are shifting the dial towards more of a building science and physics approach with greater dependence on expert advice and digital solutions.

At the same time, the pandemic crisis, natural disasters and subsequent pressures on the economy are adding to the risk and cost of construction, whilst governments and communities are seeking cheaper buildings.

The capability of the sector to respond to a more complex operating environment needs to be supported by forward looking, quality information and education tools.

**An overarching plan for future workforce needs that supports development of training programs that are flexible, up to date and relevant is needed for the sector. The Construction and Property Industry Cluster should develop this work as a matter of urgency once the entity is established and operational in 2023.**

The areas of focus for the future of work section of this submission include the care economy, energy transition, resilient supply chains, and workforce adaptability.

### Care economy – Implications for the built environment and its workforce

Meeting the needs of an ageing population and people with mobility impairments requires designs and buildings that support the accessibility needs of an older population and people with disabilities.

Despite Australia being in the middle of a demographic transition to an ageing population and more people needing disability support, the market is not driving a shift to universal standards for building more accessible homes. However, regulatory interventions initiated through changes to the 2023 NCC are. These changes will require all new houses to be built to a minimum accessibility standard that will bring about a new wave of expertise in this space.

Livable Housing Australia (LHA) has developed a voluntary accessible housing standard that provides the construction sector with design and build advice for accessible housing developments. The voluntary standard is complemented by an assessor training and registration pathway delivered by Access Institute Australia. This pathway enables people with qualifications in building surveying, engineering, architecture, building design, or occupational therapy to become a registered LHA or Supported Disability Accommodation (SDA) Design Assessor.

Since the formation of the National Disability Insurance Scheme (NDIS) and the requirement for certification of new buildings for SDA interest in the training pathway has grown as has the pool of registered Assessors.

There are currently 237 registered LHA design assessors and 103 registered SDA design assessors. These numbers are expected to grow with mandatory accessibility requirements for housing in the NCC being introduced in 2023 and developed for aged care buildings in future updates of the NCC, as well as ongoing requirements for NDIS SDA dwellings.

There are conflicts in building methods (for example, weather/water proofing requirements) that come with these code changes. If misunderstood these changes could result in building quality defects.

The quality of the code changes, information and education to support the 2023 regulatory and future changes will be key to mitigating building quality risks.

This area of building expertise provides the opportunity for traditional occupations to diversify skill sets and focus on an area of emerging need.

## **Energy transition and the pathway to net zero – Implications for the built environment and its workforce**

The built environment continues its journey on a trajectory of change over the coming decades as new measures are designed to enhance the resilience and performance of buildings and to transition to renewable energy. As the climate changes, buildings and infrastructure need to be more tolerant to weather extremes.

The short- and long-term responses on the journey to net zero in the built environment will involve:

- new methods of construction to improve thermal building performance
- improvements in appliance and services performance (transition to all electric services and the phase out of gas)
- preparing buildings for renewable power supply and electric cars
- transforming the supply chain to net zero and delivering less energy intensive products, materials and services
- implementing better processes to recycle building products and waste.

### **Short term**

Changes to requirements for new buildings are generally brought about through regulatory interventions. There are substantial changes for housing in the 2023 NCC that to be effectively implemented will require reasonable transition timeframes and clear information and education resources.

The 2023 changes to the NCC involve the roll out of new National House Energy Rating Scheme (NatHERS) requirements for 69 climate zones across Australia and the Building Sustainability Index (BASIX) requirements in NSW. NatHERS and BASIX are software tools that calculate energy performance for the whole home including major appliances (heating, cooling, hot water, solar panels and batteries) and the thermal fabric of the building.

There are also moisture management building quality risks in this change that need to be clearly understood and communicated to instil confidence in the change process. The quality of NCC changes, information and education to support the 2023 regulatory update and future changes will be key to mitigating building quality risks.

As new building methods become more complex and scientific, we are seeing a shift to more dependence on software solutions to provide assessments of building performance and compliance.

**Software tools are creating opportunities for people and are attractive to an innovation focused workforce but it is challenging traditional methods of building. More work needs to be invested in alignment of skills and expertise, potentially through better processes for continuing professional development.**

### **Medium to long term**

The building and construction industry has commenced the journey toward greater energy efficiency and will continue to progress toward meeting net zero targets for building.

- Thermal comfort changes in commercial buildings were introduced in the 2019 NCC. It is expected further developments for thermal comfort will occur in future revisions of the NCC.
- The energy supply chain is transforming to deliver less energy intensive products and materials and to better recognise embodied carbon values in construction.
- Over 70 per cent of Australia's housing stock is more than 20 years old, renovations to these buildings will see retrofitting to improve energy performance.
- As we move to a more circular economy, improvements in the re-use and recycling of building products and waste will become the norm.
- Over time the roll out of mandatory energy performance disclosure for all segments of building will likely broaden.

The energy transformation process presents the opportunity for workers to develop specialised skills and for new businesses and occupations (such as energy assessors) to emerge.

**A review of skills needs around energy efficiency in building and construction should be a priority and is needed to support sector transformation.**

### **Resilient supply chains – Implications for the built environment and its workforce**

As building processes become more complex, the risk associated with, and cost of building becomes greater. The recent pandemic crisis and subsequent economic decline has exacerbated the challenges of managing risk and cost in construction.

Prefabricated and modular construction is one way to ease cost pressures and risks. This method of construction is growing in the international market and has the potential to grow in Australia and assist to create new jobs.

There are many benefits and advantages that prefab and modular construction can provide. These have been identified in a recent report funded by the Advanced Manufacturing Growth Centre. These include reduced onsite construction time, increased productivity, greater cost control, improved environmental impact and quality control with more benefits to the end user (affordability, reliability and an effective way of providing housing after disasters). However, the report also identified that the planning and regulatory environment is hindering growth of the prefab market.<sup>1</sup>

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<sup>1</sup> Swinburne University et. Al, Regulatory Barriers associated with prefabricated modular construction, October 2022, P.6, [regulatory-barriers-with-modular-and-prefabricated-construction-FINAL-REPORT.pdf](#)



**Improving awareness of prefab building methods, upskilling the workforce, and developing specialist courses for prefab are opportunities that should be explored further.**

**The pandemic crisis demonstrated limits in Australia's supply chain capability. Governments are taking steps to support particular market segments to boost Australia's sovereign capability. This should include areas of the construction market such as forestry and advanced manufacturing of timber products. A plan that outlines construction manufacturing growth areas and associated future jobs should be developed.**

## **Workforce adaptability – Implications for the built environment and its workforce**

Technology is rapidly advancing, the ways of doing business are changing, and the regulatory environment is increasingly complex. We need to ensure the workforce has the skills and knowledge needed to meet current and emerging needs, the capacity to adapt to change, and the inclination to upskill and continually learn.

We will also need for our training products to be updated more regularly and to be packaged in more flexible ways. At present the construction, plumbing and services training package makes little use of skill sets in the delivery of training. There is significant scope to better utilise skill sets to enable the workforce to specialise, to upskill, and to broaden their scope of work.

As an industry we need to encourage our business owners and workforce to engage in ongoing learning and training, and to adapt to newer and better ways of doing things.

Whole of sector research and analysis is needed to understand future workforce needs including growth and attrition, emerging occupations, and skills requirements. The establishment of Industry Clusters and the transformation of the National Skills Commission into Jobs and Skills Australia presents a significant opportunity to improve industry and occupation skills analysis and forecasting capability, as well as speed to market on training product delivery – all of which will be critical to maintaining Australia's world leading workforce as it navigates the challenges and structural changes ahead.

## Section 3: Job security, fair pay and conditions, and the role of workplace relations

Master Builders notes that the Government's industrial relations reform agenda is sizeable, ambitious and once implemented will represent significant systemic change. The stated policy goals of these reforms are stated as also being designed to achieve goals of the White Paper.

Despite that intention, the building and construction industry holds significant reservations as to whether the direction of current reform will deliver any benefit to workplaces and would question whether recent changes might actually be contrary to the aim of the White Paper.

There is an increasingly large number of reform steps that evidence the above view. The examples in the boxes below are just of two of many reforms which take a direction contrary to the stated aim of the White Paper. This notwithstanding, Master Builders considers there is significant benefit in 'bedding down' such significant changes so as to allow workplaces to adjust and ensure the changes are robustly assessed and measured against their stated policy intent.

### **Secure Jobs, Better Pay Act**

The changes in this Act were not supported by Master Builders and are contrary to the aims of this White Paper. While there are some common areas within current workplace laws about which the need for improvement is generally agreed, such as enterprise bargaining, the provisions of the Act are not solutions and will, in many respects, make enterprise bargaining even less attractive than the evidence confirms it has already become.

The building and construction industry does not operate in an economic silo. We depend on many other industries and parts of the economy and any adverse consequences the new Act imposes on them will also flow through to, and impact adversely, building and construction.

Builders are concerned that the Act has capacity to result in adverse impacts to national economic prosperity and future job creation. These concerns are outlined in [Appendix A](#) to this submission.

### **Abolition of the Australian Building and Construction Commission (ABCC)**

The abolition of the ABCC and associated Code means that, for the first time since 2001, there will be no industry-specific body to regulate industrial relations and enforce compliance with workplace laws for building and construction workplaces. This will be a disaster for every single participant within the construction industry.

The reason Master Builders has always supported the need for the ABCC and sector-specific industrial relations laws is because they recognise and tackle the problems and conduct which are unique to the building and construction industry. No doubt, building industry participants would prefer to be covered by the same laws that cover other industries and other unions – but the reality is construction sites are not like normal workplaces and building unions are not like normal unions – and this requires specialist laws and regulators to enforce them.

A vast array of evidence exists describing the conduct and history of building unions, including the 2015 Final Report of the Heydon Royal Commission<sup>2</sup> which devotes nearly one and a half of the five volumes to the building and construction sector and the conduct of the Construction, Forestry, Mining, Energy Union (CFMEU). The Royal Commissioner summarised<sup>3</sup>:

<sup>2</sup> Royal Commission into Trade Union Governance and Corruption Final Report, December 2015,

<sup>3</sup> Ibid at Volume 5, Chapter 8, para 1 and 2.

*“The conduct that has emerged discloses systemic corruption and unlawful conduct, including corrupt payments, physical and verbal violence, threats, intimidation, abuse of right of entry permits, secondary boycotts, breaches of fiduciary duty and contempt of court.”*

*“The issues identified are not new. The same issues have been identified in reports of three separate Royal Commissions conducted over the past 40 years: the Winneke Royal Commission in 1982, the Gyles Royal Commission in 1992 and the Cole Royal Commission in 2003.”*

Further evidence from the Heydon Royal Commission and court proceedings regarding the behaviour of building unions is in [Appendix B](#). The evidence shows these problems are not new, they have existed for many decades and while the ABCC has made inroads, the problems remain a regrettably common feature of the sector today.

The abolition of the ABCC will undoubtedly deliver a range of adverse outcomes for an industry that plays such an important role in, and contribution to, the overall economy.

This cost to the community will be significant. Master Builders commissioned Ernst and Young (EY) to undertake an analysis of the economic impacts were the ABCC to be abolished. EY's modelling found that in the context of building Australia's economic recovery from COVID-19 and acute supply-side pressures currently facing the industry, abolishing the ABCC could lead to significant economic losses including:

- A fall in construction sector output of around \$18.4 billion by 2025 and \$35.4 billion by 2030
- A decline in overall economic activity of \$16.3 billion by 2025 and \$47.5 billion by 2030
- A fall in manufacturing output of \$4.8 billion by 2025 and \$13.1 billion by 2030
- A decline in services output of \$5.9 billion by 2025 and \$19.5 billion by 2030
- A fall in economic investment of \$24.7 billion by 2025 and by \$45.6 billion by 2030

Master Builders opposed the transfer of powers from the ABCC to the Fair Work Ombudsman (FWO) because the transfer does not provide the FWO the range of powers carefully designed to target the types of illegal conduct that is a feature of building and construction. For example, the FWO does not have the ABCC's powers:

- to protect individuals providing evidence from retribution and threats
- to intervene in permit-qualification matters heard before the Fair Work Commission
- that oblige it to take action and bring prosecutions against industry participants that break the law and to ensure resources are deployed and functions focussed commensurate to the level and type of inquiry received.

The abolition of the ABCC is one of most significant setbacks for building and construction workplaces and industrial relations in Australia that Master Builders has ever witnessed. It will undoubtedly increase industry disputation, reduce worksite productivity, and make it harder for workplaces to implement lawful arrangements that suit their own business and needs.

## Future reform must be practical and small business focussed

Although Master Builders continues to press for industry-specific workplace laws enforced by a dedicated industry regulator, the existing Government agenda is sizeable and the immediate focus should be on ensuring changes arising are practicable, and capable of compliance at the workplace level, especially for small businesses, which make up over 98 per cent of the businesses in our sector.

Safer and more productive workplaces can be achieved without adding to the existing level of complexity and compliance. A common sense, practical approach is needed. The focus must be on the quality, rather than the quantity, of legislation and regulation.

It is important that we have a safety net of minimum conditions for workers enshrined in law. But these must be balanced so that workers and employers have equal rights, encourage job creation, and are clear and simple to understand.

## Key elements for future workforce reform

Master Builders submits that all future workplace reform must:

- Avoid unnecessary restrictions on the way people work, including the right to be an independent contractor and for employer and employees to implement work arrangements that suit their needs – not the needs and unreasonable demands of unions.
- Preserve freedom of association laws and avoids any change that gives unions more say or more rights than ordinary everyday workers, and make sure right of entry rules are strengthened and properly enforced.
- Recognise the needs of small business and encourage them to take on new workers.
- Improve bargaining laws to better help workers and business quickly and effectively put in place arrangements without ineffective red-tape and lengthy delays.
- Ensure that organisations of employers and employees are transparent, accountable and play by the rules.
- Stop the growing creep that blurs the line between industrial relations law and other laws, such as safety law.
- Reflect that employers and employees are the two most important parts of an employment relationship. The role of third parties should only exist where necessary or invited and must never take precedence over the wishes of employees and employers.
- Be fair and simple so as to reduce disputation and enhance compliance.
- Enhance and preserve the right of employers to fairly manage their own business
- Include appropriate and effective consequences for those who breach them.
- Recognise registered organisations and their place in Australia's industrial relations system. Equally, employees' and employers' representatives must recognise that in accepting these statutorily granted privileges, this requires them to meet nominated obligations including accountability and transparency.
- Always have regard to the public interest in terms of their intent and application.
- Promote the effective operation of competitive market forces and fair competition.
- Preserve and strengthen fundamental economic principles that underpin a free, stable and productive economy.
- Support business, reduce red-tape, encourage growth, support innovation and reward hard-work and entrepreneurship.
- Facilitate the need to ensure taxpayer's money is spent wisely ensuring much needed community infrastructure is delivered on time, and on budget.
- Be implemented only after maximum consultation and engagement with industry to give policies the best chance of working successfully and effectively.
- Avoid the temptation of being based on 'good intentions' or wishing to 'be seen to do something' and instead return to an objective focus that is based on 'good evidence' where extra laws and regulations are made only if necessary.

## Section 4: Gender equity and inclusion

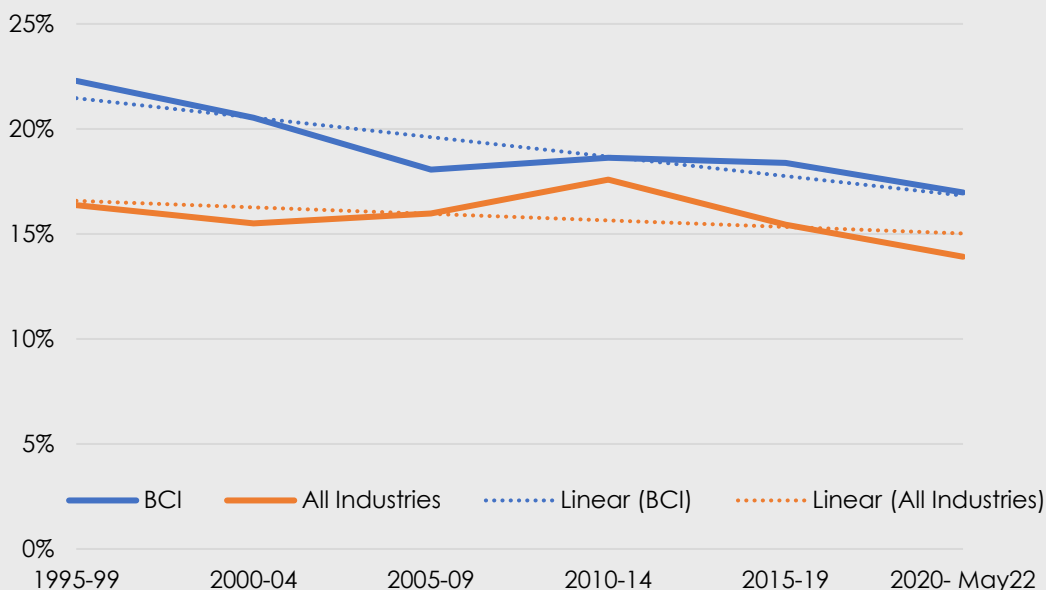
The construction industry attracts more male than female workers. Improving the attractiveness of the industry to women presents a massive opportunity to increase the pool of potential workers. To fill job vacancies in the current environment of full employment and high workforce participation this is critical.

The construction industry is making progress. The gender pay gap is declining faster than average. The proportion of women in all occupation groups, except administration, is increasing. There are more female trades and technicians in construction than ever before and the number of females commencing a trade apprenticeship has more than doubled in the last five years.

More can and needs to be done. Government funded initiatives such as Women Building Australia need continued support. Women Building Australia encourages women to join the industry, shares the stories of women in construction, dispels misconceptions, and supports retention and career progression through mentoring, training and the female led business register.

As in many other industries there is a persistent gender pay gap in the construction industry. However, the gap is shrinking. In comparing full-time average weekly earnings (ordinary hours only), the average gender pay gap in the construction industry declined from 22.0 per cent in the 1990s to 17.0 per cent in the 2020s.<sup>4</sup> The graph below shows that the gender pay gap in construction, although higher than the average across all industry sectors, is declining at a faster rate than average.

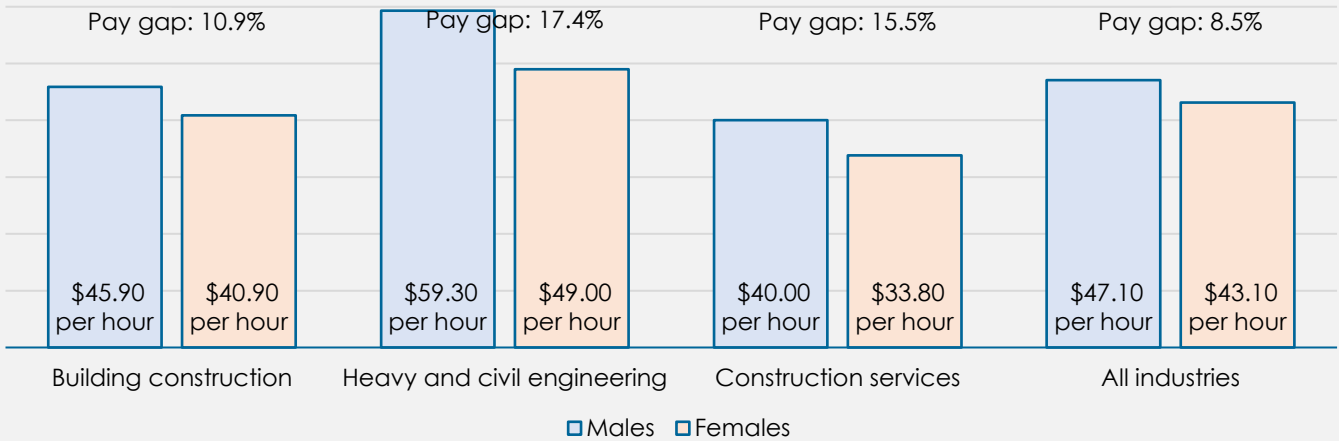
**Gender pay gap (full-time adults, ordinary hours) over time, construction and all industries**



The gender pay gap for hourly ordinary time earnings is largest in the civil and heavy engineering subsector of the industry at 17.4 per cent. However, this is also the highest paid of the three subsectors in the industry and females working in civil and heavy engineering earn more per hour (\$49.00/hour) than males in building construction (\$45.90/hour) and construction services (\$40.00/hour).

<sup>4</sup> ABS, Average Weekly Earnings, 6302.0, May 2022.

### Wage per hour (full-time adults, ordinary hours) by industry subsector and gender

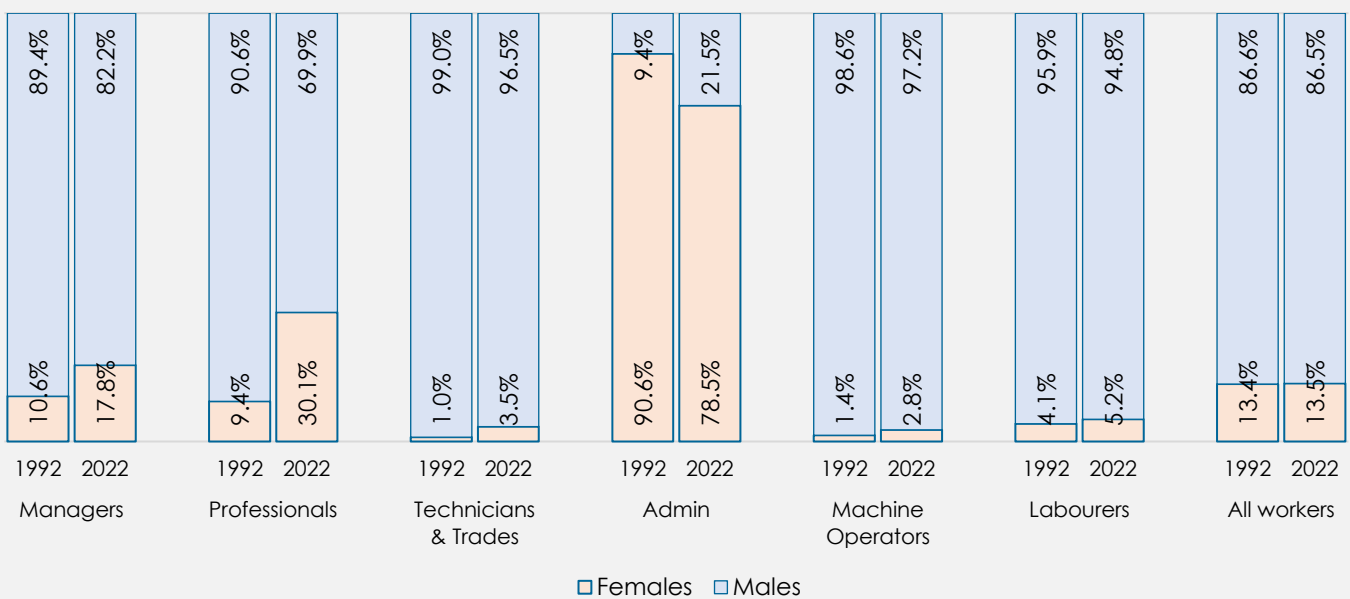


The construction industry is a male dominated industry. The latest figures show that during August 2022, 13.6 per cent of the workforce was female, slightly above the 30 year average of 12.6 per cent.<sup>5</sup> However, the gender split is not even across occupation groups. Three in ten professionals working in the building and construction industry are women, while only one in 36 machine operators are female.

At 22,701, there are more female technicians and trades in construction than ever before. While this is a small proportion at 3.5 per cent, it is above the historic average of 1.5 per cent.

Over the last 30 years, the proportion of women in the industry has remained in the 12 to 14 per cent range. At face value it may appear that progress is not being made, however this is not the case. As shown below, the gender gap in occupation groups was larger in 1992 than now. Over the last 30 years the divide has reduced. Proportionally more men now work in administration roles, while more women work in all other occupation groups.

### Share of construction workforce by occupation and gender, August 1992 and August 2022

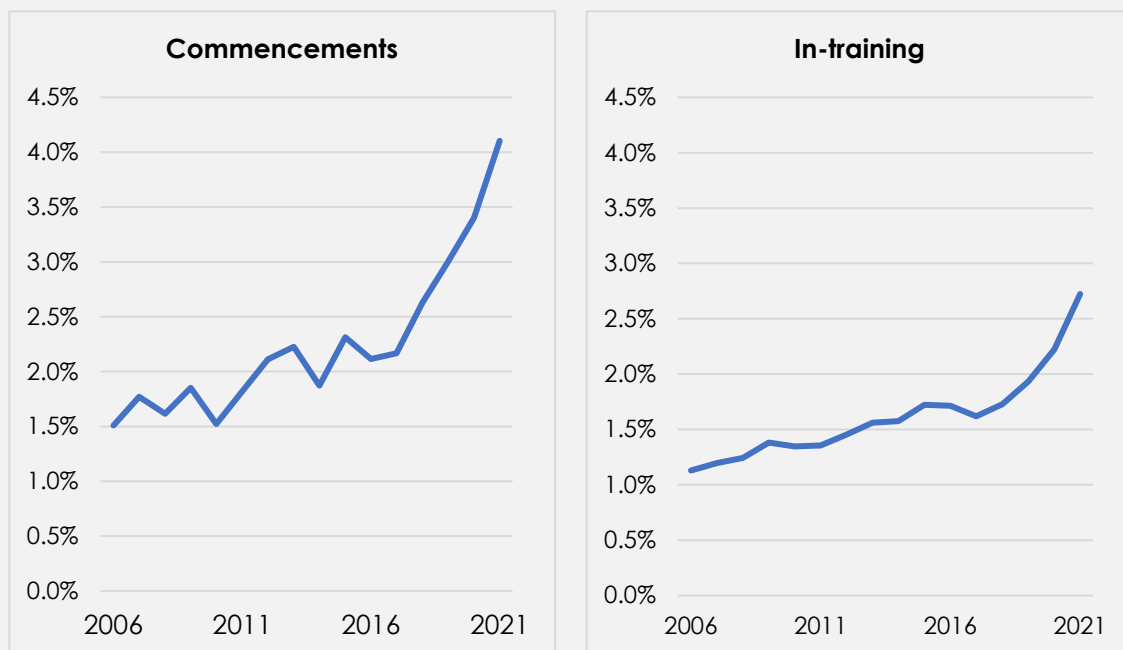


<sup>5</sup> ABS, Labour Force Detailed, 6291.0, August 2022.

The low proportion of women in some occupation groups presents an opportunity to meet future workforce needs. To harness this opportunity the barriers to female entry and retention in the industry need to be addressed. These include misperceptions around the physical demands of the work as well as unfavourable aspects of the workplace culture and its flexibility arrangements.

There are a wide range of initiatives being led by governments and industry to encourage more women into the building and construction industry, and in particularly into traditionally male dominated roles. These efforts are translating into more women in construction training pathways. In 2021, 1,825 female construction trade apprentices commenced, the highest number on record and more than double the 628 commencements recorded in 2016. Between 2016 and 2021 the proportion of females commencing a trade apprenticeship rose from 2.1 per cent to 4.1 per cent.

**Proportion of construction trade apprentices that are female, 2006-2021**



Initiatives such as Master Builders' Women Building Australia program are helping to dispel misconceptions about the industry, encourage more women to join the industry across all occupations, support retention through mentoring, and nurture career progression and business resilience.

While Master Builders and others have made head way toward improving the gender balance in the construction industry, continued efforts and commitment from all parties is required if we are to see long term and sustained change.

## Section 5: Labour Force Participation

### Section 5a: Lifting participation and reducing barriers

To address workforce shortages in an environment of low unemployment, low underemployment and high participation businesses and governments need to think outside the box.

Employers need to look beyond their traditional workforce, to consider flexible arrangements, to offer training, and to address barriers to entry and participation within their business.

Governments need to flex their policy levers to enable people out of the workforce and those working part-time to more fully participate, for example by reducing the cost of childcare and providing more afterschool care options.

In October 2022 the ABS estimated there to be 453,900 unemployed people in Australia, an unemployment rate of 3.4 per cent – the lowest on record. Meanwhile the participation rate, at 66.6 per cent, is at a near record high.<sup>6</sup>

With an estimated 470,900 job vacancies in Australia in August 2022<sup>7</sup> there are more jobs available than there are unemployed people. Mismatches in location, education and experience requirements, and other factors mean employers cannot fill vacancies and if they can it is likely a worker from another business.

We need to increase the availability of worker hours – this means increasing migration (covered later in this discussion paper), increasing participation, and increasing hours for underemployed workers.

In the current environment increasing either participation or hours will be challenging. The participation rate is at a near record high, the number of hours worked across all jobs in October 2022 is the highest on record, and the underemployment ratio at its lowest level since August 2008.<sup>8</sup>

While challenging to achieve, this also presents opportunities.

- Employers struggling to find workers may be more motivated to expand their eligibility criteria. For example:
  - to consider cohorts of workers they might otherwise not (Government incentives to hire target cohorts would also assist), or
  - to consider more flexible arrangements, such as allowing a person with care responsibilities to schedule their work outside of their care commitments.
- Making childcare and after-school-hours-care more accessible and affordable would enable parents out of the workforce to re-enter and those working part-time to work more hours.

<sup>6</sup> ABS, 2022. 6202.0 Labour Force, Australia  
<sup>7</sup> ABS, 2022. 6354.0 Job Vacancies, Australia  
<sup>8</sup> ABS, 2022. 6202.0 Labour Force, Australia



## Section 5b: Skills & Training

To foster a skilled and productive workforce fit for current, emerging and future needs, young people need unbiased, comprehensive and quality careers education. Careers education in schools is piecemeal and underfunded. A National Partnership Agreement on Quality Careers Education is needed to rectify this situation.

Learners entering the VET sector are not able to make an informed decision about the best RTO for their needs because information on student satisfaction, employment outcomes and other metrics are not published at the RTO level, despite this information being collected by the National Centre for Vocational Education and Research (NCVER). Addressing this will enable informed decision making and incentivise RTOs to strive for excellence.

To ensure students gain the skills and knowledge needed for the workforce, qualifications and training products need to be up-to-date and future focused. This requires effective workforce analysis and skills forecasting. VET reforms to establish Industry Clusters will bring workforce analysis and training product development together by industry sector and hopefully lead to improved outcomes.

A well-functioning and responsive tertiary education system is fundamental to Australia's current and ongoing success.

The construction industry workforce is far more reliant on VET than higher education. For every worker with a Bachelor or higher qualification four workers have a VET qualification (and two workers have only year 12 or below).<sup>9</sup>

This submission will, therefore, focus on the role of the VET sector in relation to workforce needs, skills and education.

### Balancing the profile of tertiary education

In the Expert Review of Australia's Vocational Education and Training System, the Hon Steven Joyce noted:

***“Vocational education has been steadily losing the battle for the heart and minds of the university sector. Fewer young people aspire to undertake vocational education courses. Many consider VET as less prestigious and only for students who are of low academic ability.” Steven Joyce***

It is disappointing that the perception of VET in young minds compares poorly to university. Especially as this does not necessarily match the experience and outcomes for those who do follow a VET pathway. In the building and construction industry trade apprentices compare favourably to higher education graduates in terms of satisfaction, employment and income.

The VET system is poorly understood and many young people feel they are not provided with a deep understanding of post-school options and are instead pushed toward university, while only 10 per cent report facing no pressure at all.<sup>10</sup>

<sup>9</sup> ABS, 2021, Census – employment, income and education

<sup>10</sup> Year13, 2017. After the ATAR: Understanding how Gen Z transition into further education and employment

The impact of the bias in schools toward university pathways is compounded by the views and perceptions of parents. For young people, their most trusted career advice from their parents (56%) followed by the internet (42 per cent), teachers (42 per cent) and career advisors (40 per cent). This perception was summed up well by an 18 year old apprentice in Victoria.<sup>11</sup>

*"Since getting my apprenticeship... people I thought were friends now look down on me... I feel judged whenever I say that I have an apprenticeship even though it is something I am extremely proud of. This stress was furthered when numerous parents from the school have openly displayed their disgust at my choice to my face and to my parents."* Male, 18, Victoria

The gap in unbiased and up-to-date careers education is contributing to the 43 per cent of young people who self-report having 'no idea' what they want to do when they leave school.<sup>12</sup> A major constraint on the quality of careers education in schools is a lack of funding and resources. The Career Industry Council of Australia report that half of schools with a student population over 1,000 have less than \$3 per student to spend on careers education.<sup>13</sup> This is not acceptable.

Vocational and higher education are both integral parts of Australia's tertiary education system. But, they are not equally valued. To level the playing field we need to address the bias toward university, overcome misconceptions, and overhaul the quality, funding and availability of careers education in secondary and senior secondary schools.

For example, research by Year 13 reported Australian apprentices have the potential to graduate from training nearly \$150,000 financially ahead of university students when accounting for apprentice earnings and university debt. 64 percent of young people said knowing this would make them consider an apprenticeship pathways more seriously.<sup>14</sup>

Students need access to comprehensive, unbiased and up-to-date careers education in order to understand the options available and to choose the most appropriate pathways for their interests and aptitudes as they transition from school to work, further education and training.

**Master Builders recommends the federal, state and territory governments enter into a new jointly funded National Partnership Agreement on Quality Careers Education to provide comprehensive, unbiased, and up-to-date careers education to secondary and senior secondary students.**

## A new VET funding agreement

We note that federal, state and territory governments are currently negotiating a five-year funding agreement for VET delivery that will commence in 2024 and have recently signed a one-year bridging agreement covering the 2023 education year.

The last major funding agreement, the National Agreement on Skills and Workforce Development, did not achieve many of its objectives. There is no single reason for this, just as there is no silver bullet to fix it.

Broadly speaking, however, the VET sector is not as damaged as some portray it to be. In building and construction, satisfaction with VET training, employment outcomes and graduate starting wages are comparable if not better than for university undergraduate completers.

<sup>11</sup> Year13, 2018. After the ATAR II: Understanding how Gen Z make decisions about their future

<sup>12</sup> Year13, 2017. After the ATAR: Understanding how Gen Z transition into further education and employment

<sup>13</sup> Clarke, 2015. Careers education must be for all, not just those going to university

<sup>14</sup> Year13, 2018. After the ATAR II: Understanding how Gen Z make decisions about their future

**Federal, state and territory governments are well intentioned when it comes to VET and operate in environments of budget constraints and competing priorities. However, improving funding, governance and transparency in the new funding agreement should be a key priority and will likely go along way toward improving outcomes.**

The commitment in the new Heads of Agreement to high quality, responsive and accessible education and training is vital, as is supporting informed decision making for students, workers, employers, and governments. Master Builders is also supportive of improved transparency and greater national consistency.

## **Improving quality by improving information**

There is a lack of publicly available information on quality and outcomes of VET training at the RTO level. Addressing this will drive informed user choice, improve training quality, and aid funding decisions.

Information on RTO quality will provide potential students, their advisers and employers with a clearer understanding of the strengths of particular RTOs and therefore enable them to make more informed decisions about the training provider and courses that best meets their needs and aspirations.

The present regulatory approach to the VET sector maintains minimum standards for RTOs, but does not have a mechanism to identify and reward providers that exceed these standards. Publishing data on the training quality and outcomes of RTOs will acknowledge high performing providers and incentivise RTOs to improve quality and strive for excellence.

Governments provide significant investment in RTOs to deliver VET training. Achieving value for this investment is critical. Improved information on RTO quality and training outcomes will assist governments to better align funding decisions with the measures of quality that align with their policy priorities and jurisdictional needs.

Information on quality at the RTO level will also provide assurance to industry and governments paving the way for less prescriptive, more flexible, and more responsive training products, that are better able to meet current and emerging training and skills needs.

In the five-year Productivity Inquiry Interim Report, the Productivity Commission noted that “information to guide student choice has improved in higher education, but remains deficient in VET”.

In the higher education sector, the ComparED ([www.compared.edu.au](http://www.compared.edu.au)) website draws on the Quality Indicators for Learning and Teaching (QILT) database to provide public information by institution and qualification on student experience, skills development and employment outcomes. This resource also enables comparison between institutions and with the national average.

Similar information for the VET sector is collected by the NCVER. This includes a range of measures covering student satisfaction, skills development, and employment outcomes. However, this information is not published at the RTO level. This can and should change.

**To ensure that students can make informed decisions about their training pathway and training provider, to incentivise training providers to strive for excellence, and to inform decision making on funding for training delivery, governments should make information on training quality and outcomes publicly available at the RTO and qualification level.** Over time the VET quality database could be expanded to draw on data from the Australian Skills Quality Authority, the Unique Student Identifier and other sources.

## Understanding workforce needs

Improving our understanding of emerging and future workforce skills needs is critical to ensuring training products are not only suitable for the jobs of today, but for looking forward and preparing students for what lies ahead.

VET reforms to establish industry clusters, which will have dual responsibility for workforce analysis and training product development, presents an opportunity to better connect future looking workforce and skills analysis with the national training system.

An industry cluster for the built environment will commence operations in 2023 and bring together industry stakeholders with responsibility across the lifespan of our buildings and infrastructure. Bringing together design, construction and building management into a single cluster has the potential to improve processes and result in better quality assets.

The workforce research and analysis of the industry cluster will complement the work done by individual industry members and Jobs and Skills Australia to improve understanding of current and emerging challenges and opportunities including the needs of the next generation of workers, industry growth and attrition, emerging occupations, skills requirements, and pathways.

These insights will inform the development of training products in the vocational education system to ensure training and qualifications are up to date, flexible, and responsive to changing workforce, industry, and economic conditions.

## Section 5c: Apprenticeships & work integrated learning

Work integrated learning pathways, such as apprenticeships, are well established and operate successfully in the construction industry. Despite their effective operation, there is always room for improvement.

To increase the completion rate we need to decrease attrition. To achieve this we need:

- A work-readiness assessment tool to identify apprentice candidates that may need additional support or training to achieve success.
- Greater uptake of pre-apprenticeships so commencing apprentices understand the industry, are work-ready and have realistic expectations.
- Mentoring and support services for apprentices, particularly in their first year, to provide guidance, improve communication and resolve issues early.
- Training for employers and supervisors so they are better equipped to train and support their apprentices.

The Department of Employment and Workplace Relations (DEWR) is currently consulting on existing services and supports for apprentices and trainees. A copy of the discussion paper is available at: [www.dewr.gov.au/australian-apprenticeships/resources/australian-apprenticeship-services-and-supports-discussion-paper](http://www.dewr.gov.au/australian-apprenticeships/resources/australian-apprenticeship-services-and-supports-discussion-paper).

In looking at apprentice pathways, and work integrated learning more broadly, the Employment White Paper Taskforce should liaise with officials at DEWR and review the submissions lodged as part of this consultation.

Master Builders is a strong advocate of work integrated learning pathways – including apprenticeships, traineeships and cadetships – and ensuring these pathways are inclusive and fit for purpose now and into the future.

The combination of work and study allows participants to reap the benefits of formal training while gaining practical on the job experience and earning a wage. Students also report higher satisfaction and improved employment outcomes<sup>15,16,17</sup>

- 88.9 per cent of trade apprentices are satisfied with their apprenticeship, compared to 80.1 per cent satisfaction with training for university graduates, dropping to 74.4 per cent for engineering and 74.5 per cent for architecture and built environment fields of study.
- 91.5 percent of trade apprentices are employed on completion, 92.0 percent in occupations relevant to their training and 94.6 per cent report their trade skills as directly relevant to their work. By comparison, 72.2 per cent of university graduates gain full-time employment, of which 28.3 per cent report they are not fully using their skills or education in their employment.
- VET graduates of construction, plumbing and services qualifications have average starting wages of \$65,000, while average starting wages for university bachelor undergraduates are \$62,600.

## Building and construction is the #1 apprentice employer

Building and construction is the largest employer of apprentices nationally and in every state and territory. In the year to 31 March 2022, 52,678 construction apprentices and trainees commenced (22.4 per cent of all commencements) and 20,776 graduated (24.3 per cent of all completions).<sup>18</sup>

121,166 apprentices and trainees in-training in Australia in March 2022 were employed in building and construction. This is nearly one in every three apprentices and trainees (31.2 per cent) and more than three times the number employed in the next highest industry sector (other services, 37,765 apprentices and trainees, 9.7 per cent of total).<sup>19</sup>

<sup>15</sup>NCVER, 2020. *Apprentice and trainee experience and destinations – time series 2008, 2010 and 2019*; and

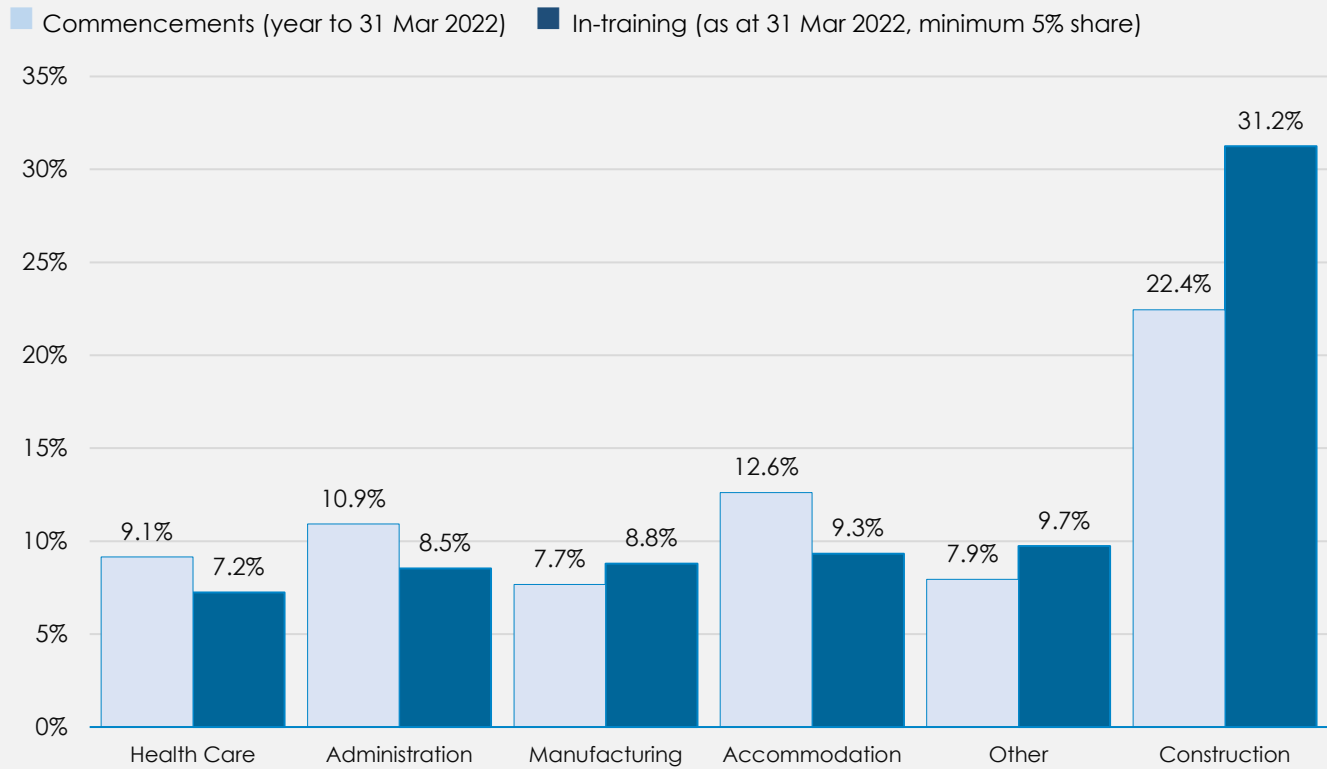
<sup>16</sup> NCVER, 2020. *VET student outcomes 2019*

<sup>17</sup> QILT, 2020. *2019 Graduate outcome survey*

<sup>18</sup> NCVER, 2022. *Apprentice and Trainees, March 2022*

<sup>19</sup> *Ibid.*

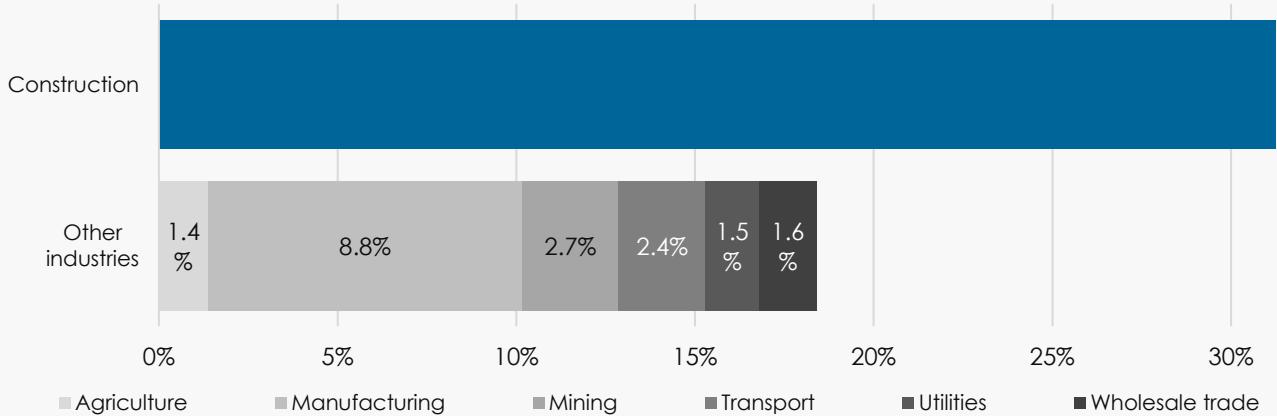
### Australian apprentices by industry sector



Source: NCVER, 2022. *Apprentice and Trainees, March 2022*

There are more apprentices and trainees employed in construction than in agriculture, manufacturing, mining, transport, utilities and wholesale trade combined.

### Apprentices in-training by industry (construction and selected industries), 31 March 2022



Source: NCVER, 2022. *Apprentice and Trainees, March 2022*

## The role of pre-apprenticeships

One of the key challenges employers face is a lack of work-ready apprentice candidates. While employers use different terms to describe work-readiness the attributes they seek typically align into the following areas:

- Motivation and interest in the industry, including a good attitude toward safety
- Strong work ethic
- Ability to communicate and basic social skills
- Willingness to observe, learn and ask questions
- A sense of self-responsibility and time management
- Realistic expectations
- Driver's licence.

**Feedback from employers indicates that apprentices who commence before they are work-ready are less likely to complete.** This costs employers, trainers and governments time and money, and can create issues for the apprentice's future work prospects.

Our view is that learners sit on a continuum of work-readiness, and that providing additional support and training to learners on the lower end of the continuum will provide beneficial outcomes for the learner and the employer.

Apprentices that undertake prevocational training, such as VET in school or a pre-apprenticeship, are more likely to complete their apprenticeship. This training enables participants to gain confidence and to become familiar with the industry.

**To improve outcomes and completion rates Master Builders recommends the development of a work-readiness assessment tool and support programs that assist those in need to gain these critical skills.**

Such an initiative is likely to be particularly beneficial in improving outcomes for people from disadvantaged backgrounds.

## Supporting apprentices and trainees

A wide range of mechanisms are available that provide apprentices and trainees with learning and social support. These include additional funding to support students with language, literacy, numeracy and digital needs; flexibility in training and assessment for students with learning disabilities and other needs; Group Training Organisation (GTO) field officers; the Australian Apprentice Support Network; and a range of mentoring services.

The most reported reasons for dropping out of an apprenticeship are employment related. This includes interpersonal issues with the employer or colleagues, being made redundant, or not liking the work. Apprentices that leave, tend to leave within their first year.

Non-financial support for apprentices should aim to reduce attrition and should therefore target first years (but not exclude those in other stages) and help them to build resilience and to identify and resolve conflicts early. The GTO model successfully achieves this through field officers. Field officers visit apprentices and employers on the job site, discuss progress, identify and assist to resolve issues, and foster supportive apprentice-employer relationships.

Financial support for apprentices should incentivise completion of first year and graduation.

## Supporting apprentice and trainee employers

Government initiatives during the pandemic to support Australians into training and work were highly successful, in particular the Boosting Apprenticeship Commencements initiative which saw record apprentice enrolments and was lauded by building and construction employers.

The Boosting Apprenticeship Commencements program provided a wage subsidy to employers who hire apprentices between October 2020 and the end of June 2022. The subsidy was up to 50 per cent of the gross wages paid to that apprentice (subject to a maximum of \$7,000 per quarter). By making it less costly for building and construction businesses to take on new apprentices, the program allowed for more new entrants to be drawn into the industry. During their training and once qualified, these apprentices will contribute to building the housing, community and commercial facilities, and infrastructure Australia needs.

**Feedback from Master Builders members on the Boosting Apprenticeship Commencements was very positive, with some even referring to it as initiating an apprenticeship 'renaissance'.** The data available suggests new construction apprentice numbers increased by about 80 per cent as a result of the scheme.

We recognise the pandemic cliff was the impetus for the original Supporting Apprentices and Trainees initiative which provided employers a 50 per cent wage subsidy for retaining apprentices. As the pandemic dragged on this initiative was reframed to encourage employers to engage new apprentices, while also continuing support at a lower level for the second year (10 per cent) and third year (five per cent).

The current wage subsidies are 10 per cent in first year, 10 per cent second year and five per cent in third year. We are grateful that these subsidies were continued in the most recent budget.

The purpose of the wage subsidy is two-fold – firstly to encourage employers to hire apprentices and secondly to off-set some of the cost associated with their employment (e.g. training, equipment and supervision). It is in the first year of an apprenticeship that costs are highest for the employer, despite lower wages, due to recruitment and onboarding, supervisory oversight, and lower productivity.

**Given apprentice productivity increases as they gain skills, knowledge and experience, we believe that front-loading the wage subsidies into the first year of an apprenticeship will better achieve the intended policy outcomes. Master Builders recommend the initiative be restructured to provide a 30 per cent wage subsidy to employers of first year apprentices.**

## Improving apprentice and trainee outcomes

In addition to direct support for apprentices and employers, Master Builders believes outcomes can be improved by:

- **Developing an Apprentice Commencement and Retention Strategy** that assesses the impact of government policy and program decisions on commencements and retention, and draws on the findings of pilots and programs undertaken in recent decades to embed evidence-based approaches and targets that will improve the consistency and outcomes of the Australian apprenticeship system.
- **Establishing a National Apprenticeship Advisory Board** to provide advice to government on the needs of industry and apprentices. We note that as the largest employer of apprentices and trainees the building and construction industry should be directly represented on the Board.



## Section 5d: Workforce mobility

Workforce mobility improves productivity by enabling the flow of workers to respond to the ups and downs business demand and economic conditions. Workers are more mobile than businesses, particularly in construction.

Workforce mobility in Australia is impeded by inconsistent state and territory licensing arrangements and a lack of mutual recognition. This exacerbates workforce shortages and reduces productivity leading to delayed projects and increased costs.

Carve outs for construction in relation to automatic mutual recognition reforms should be removed and the National Registration Framework for building practitioners reinvigorated.

Master Builders initially welcomed reforms to improve mutual recognition of occupational licensing across jurisdictional boundaries. The reforms were intended to improve the efficiency of mutual recognition arrangements, to address concerns about cross border provision of services, to reduce red tape and costs, and to increase workforce mobility. Unfortunately, when implemented at the state and territory level, many jurisdictional governments carved out exemptions for construction licensing.

Master Builders also notes the Building Confidence Report recommendation that proposed a National Registration Framework for building practitioners. The framework proposed consistent registration requirements for building practitioners covering qualifications, experience and good character. Unfortunately, momentum on these reforms has stalled.

**The Federal Government should incentivise state and territory governments to fully implement automatic mutual recognition reforms across all licensed occupations and to reinvigorate work on nationally consistent registration for building practitioners.**

As with all industries, the geographic mobility of the construction workforce is inhibited by the continued existence of inefficient taxes like stamp duties. Stamp duties have the effect of penalising workers who sell their home in one place in order to take up more suitable jobs in another location. In this way, stamp duties deprive both businesses and workers of mutually beneficial opportunities. More broadly, these taxes also prevent labour market interactions which could help match demand and supply more closely. **Settings in the tax system which obstruct labour mobility also need to be identified and tackled.**

## Section 5e: Migration

Australia is facing widening workforce shortages and limited capacity within the domestic market to meet demand. Migration is a key policy lever available to address workforce shortages that cannot be filled by Australians.

Our migration system is overly complex, expensive and slow. Increasing demand for skilled migrants means we need to be more attractive than comparable countries such as the UK and Canada. The government is taking steps in the right direction by increasing the migration cap and visa processing capability, but more can be done.

Australia's migration system can be improved by:

- Reducing the proliferation of occupation lists.
- Revisiting the definition of 'skilled' to ensure highly technical and well-paid jobs at skill level 4 and 5 (e.g. high risk demolition) are included.
- Removing labour market testing requirements.
- Improving recognition of comparable international qualifications and pathways.
- Further increasing the migration cap for 2023-24 and 2024-25.

Master Builders strongly supports policies and programs that enable Australians to develop the skills and knowledge needed for work now and into the future. However, with the unemployment rate below four per cent, more jobs now than pre-covid, and high vacancy levels, demand for workers is outstripping domestic supply.

To maximise economic opportunities, we need to ensure that businesses can access workers with the skills and knowledge they need. If businesses cannot fill job vacancies their outputs and productivity will be constrained as will the Australian economy.

A 2019 report by the Committee for Economic Development of Australia (CEDA)<sup>20</sup> found that skilled migration, while representing less than one per cent of Australia's labour force, delivers critical benefits to businesses, the economy more broadly and to the existing workforce.

Skilled migration positively impacts business investment and productivity. It also raises the skills of the workforce through the transfer of knowledge and expertise, introduces new skills and enables emerging industries to leverage international capability.

Increased migration not only directly supports Australian businesses to meet their workforce needs and maximise their outputs and productivity, it also creates demand for residential home building and other construction, which in turn contributes further to overall economic activity and growth.

Inward migration is particularly supportive of demand for higher density home building. The number of new home commencements on this side of the market dropped by over 35 per cent between 2015-16 and 2020-21. Larger volumes of migration over the coming years will speed up the recovery in this important part of Australia's building industry.

<sup>20</sup> CEDA, 2019. Effects of temporary migration

Pre-covid, Australia ranked as a highly desirable country for international migrants. The OECD's Indicators of Talent Attractiveness<sup>21</sup> ranks countries based on seven determinants of attractiveness: quality of occupations, income and tax; future prospects; family environment; skills environment; inclusiveness; and quality of life. In 2019, Australia came out top of the list for highly qualified workers followed by Sweden, Switzerland, New Zealand and Canada. However, Australia did not make the top five for attracting entrepreneurs (7th) or university students (6th).

The OECD report also identified that country policies play an important role in their overall attractiveness and that most countries could jump to the top of the attractiveness list if they adopt more favourable policy settings. While more recent analysis isn't available, it is likely that Australia has slipped down the ranks due to strict covid border closure, slow reopening, and visa processing delays.

Increasing demand for skilled migrants means we need to be more attractive than comparable countries such as the UK, US, New Zealand and Canada. The government is taking steps in the right direction by increasing visa processing capacity, but more can be done.

Australia's migration system is complex, expensive and slow. It needs to be simplified with lower visa costs, quicker processing, better employment outcomes, and clearer pathways to permanency.

The Department of Home Affairs is currently consulting on A Migration System for Australia's Future to ensure the system better meets existing challenges and sets a clear direction for the coming decades. More information is available at: [www.homeaffairs.gov.au/reports-and-publications/reviews-and-inquiries/departmental-reviews/migration-system-for-australias-future](http://www.homeaffairs.gov.au/reports-and-publications/reviews-and-inquiries/departmental-reviews/migration-system-for-australias-future).

In looking at migration pathways, settings and caps, the Employment White Paper taskforce should liaise with officials at Department of Home Affairs and review the submissions lodged as part of their consultation process.

Master Builders has identified potential areas for migration reform and calls on the government to:

- **Reduce the proliferation of occupation lists**, or preferably their removal all together.
  - ANZSCO is out of date and there are many occupations at skill level 4 and 5 that require technical skills and knowledge, are well paid, and in demand, for example high risk demolition, rigging, and concreting.
- **Remove the requirement for labour market testing** – there is a lack of evidence that it contributes to the recruitment of Australian workers first and it significantly adds to the red tape facing employers.
- **Improve recognition of comparable international qualifications and pathways** to reduce tedious assessment processes and speed up recruitment. For example, say a UK bricklaying apprenticeship resulting in higher skills than an Australian pathway, but without knowledge of the National Construction Code (NCC), a UK qualified bricklayer should be able to skip the trade recognition process, but perhaps undertake a short course on the NCC once they are in Australia.

The increase in the permanent migration cap in 2022-23 was welcomed by industry but is likely to fall short of addressing the current need for workers. As such **Master Builders calls for an increase to 200,000 skilled visa places in 2023-24 and 2024-25 with preference given to employer sponsored visa places.**

Employer sponsored visas deliver the better outcomes for the individual, for business and for the economy. Employer sponsored migrants are more likely to be employed at the skill level commensurate to their education and experience, and at higher wages, and are more likely to be filling a job for which there were not suitable Australians.

<sup>21</sup> OECD, 2019, Migration Policy Debates, No 19 2019

There are some skilled visa classes which do not require employer sponsorship. These enable skilled workers greater flexibility to work for different employers while in Australia. However, without established networks (such as those facilitated through an employer) or with conditions restricting where a visa holder can work, migrants can find it difficult to gain employment commensurate to their level of education and experience.

Some stakeholders at the Jobs and Skills Summit called for all skilled visas to be portable, i.e. linked to an industry, not a sponsoring employer. Master Builders does not support this approach. Rather, we call on the government to review points-test visa pathways not linked to an employer to improve integrity in the system and ensure these pathways are meeting policy objectives.

## Master Builders Australia

Master Builders Australia (Master Builders) is the nation's peak building and construction industry association. Master Builders' members are the Master Builder state and territory associations.

Over 130 years, the movement has grown to over 32,000 businesses nationwide, including the top 100 construction companies. Master Builders is the only industry association that represents all three sectors of the industry – residential, commercial, and engineering/civil construction.

## Australia's building and construction industry

Building and construction is one of the largest sectors of the Australia. Our industry packs its biggest punch when it comes to the provision of full-time employment and support for small business. During August 2022, there were 1.24 million people employed in the building and construction industry. About 86 per cent of these jobs were full-time in nature, a far higher proportion than in the rest of the economy. This means that construction has consistently been the economy's largest provider of full-time jobs over many decades. During August 2022, there were 1.07 million full-time jobs in the construction industry – more than every sector of the economy outside of health and social services.

During the 2021-22 financial year, it is estimated that construction businesses paid out a total of \$66.1 billion in wages and salaries to its employees, with gross operating profits in the industry amounting to \$35.3 billion over the year. Industry turnover was \$384.2 billion during 2021-22, a sum which includes sales from construction businesses to other construction businesses.

The most up-to-date ABS data indicates that as at 30 June 2022, there was a total of 445,253 construction businesses in operation across Australia. This is more than every other sector of the economy. The most striking feature of our industry's construction businesses is their size: of the total, the overwhelming majority (98.6 per cent) are small in size with less than 20 employees. More than half of our construction businesses (56.5 per cent) have no employees at all, typically operating as sole traders or partnerships. Latest ABS figures indicate that the total value of building and construction work done over the year to September 2022 totalled \$238.6 billion in value, an amount directly equivalent to 10.4 per cent of total GDP.

The small size of construction businesses is reflected in their pattern of turnover. The majority (58.5 per cent) turn over less than \$200,000 per year with about 1 in 5 (20.9 per cent) earning less than \$50,000 annually. Just 1.4 per cent of building and construction businesses have annual revenues in excess of \$10 million.

The structure of construction activity means that the support offered by it to other parts of the economy is strong. This is because there is a high domestic content to our industry's inputs including building materials, labour and professional services. As a result, it is estimated that for every \$1 million worth of residential building activity the entire economy is better off to the tune of \$3 million. Similarly, \$1 million worth of building and construction activity is estimated to support a total of 9 full-time jobs across Australia's economy – including 3 jobs in other sectors outside of building and construction.

In terms of our industry's outputs, about \$102.2 billion worth of civil and engineering construction was carried out over the year to September 2022. In addition to this, residential building work totalled \$83.5 billion over the same period with \$52.9 billion in non-residential building activity.

Latest figures show that work started on about 207,955 new homes over the year to June 2022, of which 132,100 were detached houses (64 per cent of the total). Over the same period, about 175,000 new homes were completed and became available to live in for the first time – meaning that a roof was put over the heads of an additional 454,000 Australians.

Over the year to June 2022, building work began on 4,275 new units of public housing – an increase of +15.7 per cent on one year earlier. At just 2.1 per cent, the share of new home building accounted for by the public sector is quite low by historic standards and this represents a key challenge going forward.

The building and construction industry is at the fulcrum of mentoring our nation's next generation of trades workers. Over the year to March 2022, a total of 20,776 new construction apprenticeships were completed with a further 52,682 new construction apprentices and trainees beginning their journey. At the end of March 2022, a record 121,172 construction industry apprentices were in training. Encouragingly, apprentice involvement in the industry has grown strongly over the last couple of years thanks to enhanced government support programs as well as favourable business conditions in the industry.

## **APPENDIX A: Reservations about the direction of industrial relations reform**

### **Example 1: Secure Jobs, Better Pay Act**

1. The changes in this Act were not supported by Master Builders and are contrary to the aims of this Paper. While there are some common areas within current workplace laws about which the need for improvement is generally agreed, such as enterprise bargaining, the provisions of the Act are not solutions and will, in many respects, make enterprise bargaining even less attractive than the evidence confirms it has already become.
2. The building and construction industry does not operate in an economic silo. We depend on many other industries and parts of the economy and any adverse consequences the new Act imposes on them will also flow through to, and impact adversely, building and construction. Builders are concerned that the Act has capacity to result in adverse impacts to national economic prosperity and future job creation.
3. Specifically:
  - a) Industry-wide bargaining is a retrograde step and Master Builders opposed all parts of the Act that expand or create multi-employer bargaining streams. There is no doubt that these elements of the Bill will see a return to industry-wide pattern deals and entrench sector-wide strike action that will be damaging to workplaces and the broader Australian economy.
  - b) The Act also removed the 'enterprise' from 'enterprise bargaining' and was strongly opposed in this area. Master Builders believes that workplace laws must encourage workplaces to drive productivity and foster innovation at the individual enterprise level. The Act does the exact opposite and will significantly undermine the capacity for building and construction workplaces to negotiate, agree and implement workplace arrangements that suits their specific needs. The will entrench and actively encourage a 'one size fits all' approach to the detriment of individual enterprises and workplaces.
  - c) The Act also removed the 'agreement' from 'enterprise agreements'. Master Builders has long supported workplace laws that provide a comprehensive and strong safety net of minimum employment conditions, above which workplaces may negotiate and bargain for a collective set of workplace specific arrangements that are reached in good faith and genuinely agreed by all parties. The Act gave the Fair Work Commission unprecedented power to reach into this process and make workplace determinations where the parties cannot agree. This will not only discourage meaningful and genuine discussions at the workplace, but will likely see workplaces being forced to adopt an 'agreement' that is not actually agreed by that workplace and has been determined by a third party who is not part of that workplace. Such changes effectively remove the 'agreement' aspect from 'enterprise agreements' and were opposed by Master Builders.
  - d) The Act gave unions a greater say over workers terms and conditions than are available to those actual workers to whom the conditions apply. Master Builders has long believed that workplace laws should recognise and respect that workers and employers are the primary and most important parts of any employment relationship, and we oppose changes that would give unions more rights than available to everyday workers. Master Builders supports the right for workers to be represented by a union if requested by members, however only 10 per cent of the building and construction workforce are union members. That leaves around 90 per cent of a 1.1+ million workforce who have chosen to not join a union. The rights of this overwhelming majority cannot be subservient to those of a small majority.
  - e) The Act left non-union and single enterprise agreements stuck in the slow-lane and mired in red tape. While it was said by Government that some changes under the Act were made to reduce the complex and technical aspects currently faced by parties when seeking to have agreements approved, many of these only apply to agreements made under the multi-enterprise bargaining streams or are not applicable to single enterprise agreements. This will mean those making single enterprise or non-union agreements will face many of the same complexities and barriers that feature in the current law and are universally agreed to be a significant disincentive to workplace bargaining. The message this sends to workplaces is that unless a union is involved, workers don't know what is good for themselves, nor can they be trusted to negotiate and implement workplace arrangements that suit their needs. This is the wrong message and is not supported by Master Builders.

- f) The Act restored the system focus to arbitration which ignores the importance of encouraging workplaces to resolve their problems. It significantly increased powers available to bodies and persons who are not direct parties to an employment relationship, and expanded the arbitration powers of the Fair Work Commission. Master Builders, as a general principle, believes that Australian workplace laws should always focus on encouraging employers and employees to discuss concerns and resolve disputes at the workplace level. The Act is contrary to that approach.

## **APPENDIX B: Reservations about the direction of industrial relations reform**

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### **Example 2: Abolition of the ABCC**

1. The abolition of the ABCC and associated Code means that, for the first time since 2001, there will be no industry-specific body to regulate industrial relations and enforce compliance with workplace laws for building and construction workplaces. This will be a disaster for every single participant within the building and construction industry.
2. The reason Master Builders has always supported the need for the ABCC and sector-specific industrial relations laws is because they recognise and tackle the problems and conduct which is unique to the building and construction industry. As outlined hereunder, these problems are not new – they have existed for many decades and, while the ABCC has made inroads, they remain a regrettably common feature of the sector today.
3. In a general sense, the work of the ABCC to drive meaningful and lasting cultural change is not yet done. It's abolition will undoubtedly deliver a range of adverse outcomes for an industry that plays such an important role in, and contribution to, the overall economy.
4. The broader community also stands to suffer. A key benefit of the ABCC is that it ensures that projects funded directly or indirectly by the Commonwealth are delivered in a way that ensures taxpayers receive value for money and the community can enjoy much needed public infrastructure, such as roads, schools and hospitals. This benefit will be lost.
5. This cost to the community will be significant. Master Builders commissioned Ernst and Young ('EY') to undertake an analysis of the economic impacts were the ABCC to be abolished. EY's modelling found that in the context of building Australia's economic recovery from COVID-19 and acute supply-side pressures currently facing the industry, abolishing the ABCC could lead to significant economic losses including:
  - a. A fall in the output of the construction sector of around \$18.4 billion by 2025 and \$35.4 billion by 2030;
  - b. A decline in overall economic activity of \$16.3 billion by 2025 and \$47.5 billion by 2030.
  - c. A fall in manufacturing output of \$4.8 billion by 2025 and \$13.1 billion by 2030.
  - d. A decline in services output of \$5.9 billion by 2025 and \$19.5 billion by 2030.
  - e. A fall in economic investment of \$24.7 billion by 2025 and by \$45.6 billion by 2030.
6. While Master Builders submits that the economic self-harm and community cost of abolishing the ABCC is clear. In addition, the evidence shows that the ABCC is not 'anti-union' and is in fact actually 'anti-lawbreaking'. The fact that one building union has been for decades the most common perpetrator of breaches of Australian workplace laws, not only in building and construction but throughout all sectors, demonstrates that the ABCC only does exactly what its underpinning legislation requires it to do – to uphold compliance with workplace laws and to prosecute breaches of those laws amongst participants in the industry.
7. Even when narrowed to only those unions which operate in building and construction, the evidence shows again that one specific building union is responsible for around 97 percent of the total \$17,206,523.00 in penalties handed to unions by Courts in judgements involving ABCC matters since 2016. Penalties given to other unions over the same period total \$584,000 – a total lower than amount awarded against building and construction employers.
8. To be clear, the need for the ABCC and industry specific industrial laws is not a source of pride for Master Builders or anyone in the building and construction industry. We suggest that all building industry participants would prefer to be covered by the same laws that cover other industries and other unions – but the reality is that construction sites are not like normal workplaces and building unions are not like normal unions – and this requires specialist laws and regulators to enforce them.
9. The sources of evidence that describe the conduct and history of building unions in, and impact on the culture of, the building and construction industry is vast. One of the most recent was the Final



Report of the Heydon Royal Commission<sup>22</sup> which devoted some 1160 pages to the building and construction sector alone.

10. Of the five volumes in the Final Report, almost one and a half volumes were specific to the building and construction sector and the conduct of the CFMEU. In respect of this conduct, the Royal Commissioner summarised:

*“The conduct that has emerged discloses systemic corruption and unlawful conduct, including corrupt payments, physical and verbal violence, threats, intimidation, abuse of right of entry permits, secondary boycotts, breaches of fiduciary duty and contempt of court.”<sup>23</sup>*

11. Then further observed:

*“The issues identified are not new. The same issues have been identified in reports of three separate Royal Commissions conducted over the past 40 years: the Winneke Royal Commission in 1982, the Gyles Royal Commission in 1992 and the Cole Royal Commission in 2003.”<sup>24</sup>*

12. And later:

*“The continuing corruption and lawlessness that has been revealed during the Commission suggests a need to revisit, once again, the regulation of the building and construction industry.”<sup>25</sup>*

13. Insofar as the need for an industry specific regulator, the Heydon Royal Commission observed:

*“One consideration which supports the need for an industry specific regulator is the high level of unlawful conduct in the industry. This is demonstrated by Appendix A to this Chapter. The sustained and entrenched disregard for both industrial and criminal laws shown by the country’s largest construction union further supports the need. Given the high level of unlawful activity within the building and construction sector, it is desirable to have a regulator tasked solely with enforcing the law within that sector.”<sup>26</sup>*

14. And later:

*“Having regard to all of the available material, the argument that there is no need for an industry specific regulator cannot be sustained”.<sup>27</sup>*

15. It was also observed:

*“Specialised treatment of a particular industry is not a novel concept: different areas of the financial services industry, for example, are subject to specialised laws and the supervision of a specialised regulator. Many professions are, likewise, subject to specialised laws that govern the manner in which their work is undertaken. It is not necessary to demonstrate in detail the public interest in that state of affairs. In the case of the building and construction industry, the justifications for special treatment have already been advanced”.<sup>28</sup>*

16. The Heydon Royal Commission recommended as follows:

*“There should continue to be a building and construction industry regulator, separate from the Office of the Fair Work Ombudsman, with the role of investigating and enforcing the Fair Work Act 2009 (Cth) and other relevant industrial laws in connection with building industry participants.”<sup>29</sup>*

17. The above findings were made following broader commentary about the building industry, and particularly the CFMEU. They complimented observations from earlier commentary in the Interim Report<sup>30</sup> which made the following observations about the CFMEU:

*“The evidence in relation to the CFMEU case studies indicates that a number of CFMEU officials seek to conduct their affairs with a deliberate disregard for the rule of law. That evidence is*

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<sup>22</sup> Royal Commission into Trade Union Governance and Corruption Final Report, December 2015,

<sup>23</sup> Royal Commission into Trade Union Governance and Corruption Final Report, December 2015, Volume 5, Chapter 8, para 1

<sup>24</sup> Ibid at para 2

<sup>25</sup> Ibid at para 3

<sup>26</sup> Royal Commission into Trade Union Governance and Corruption Final Report, December 2015, Volume 5, Chapter 8, para 83

<sup>27</sup> Ibid at para 97

<sup>28</sup> Ibid at para 108

<sup>29</sup> Ibid refer to recommendation 61

<sup>30</sup> Royal Commission into Trade Union Governance and Corruption, Interim Report (2014), Vol 2, ch 8.1, p 1008.

suggestive of the existence of a pervasive and unhealthy culture within the CFMEU, under which:

- (a) *the law is to be deliberately evaded, or crashed through as an irrelevance, where it stands in the way of achieving the objectives of particular officials;*
- (b) *officials prefer to lie rather than reveal the truth and betray the union;*
- (c) *the reputations of those who speak out about union wrongdoing become the subjects of baseless slurs and vilification."*

18. Noting that additional case studies were undertaken by the Commission subsequent to the Interim Report, it was found that:

*"The case studies considered in this Report only reinforce those conclusions"<sup>31</sup>*

19. And:

*"The evidence has revealed possible criminal offences by the CFMEU or its officers against numerous provisions of numerous statutes including the Criminal Code (Cth), the Crimes Act 1900 (NSW), the Crimes Act 1958 (Vic), the Criminal Code 1899 (Qld), the Criminal Law Consolidation Act 1935 (SA), the Corporations Act 2001 (Cth), the Charitable Fundraising Act 1991 (NSW) and the Competition Policy Reform (Victoria) Act 1995 (Vic)"<sup>32</sup>*

20. Further:

*"The conduct identified in the Commission is not an isolated occurrence. As the list in the previous paragraph reveals, it involves potential criminal offences against numerous laws. It involves senior officials of different branches across Australia."<sup>33</sup>*

21. And:

*"Nor is the conduct revealed in the Commission's hearing unrepresentative"<sup>34</sup>*

22. Of the seventy-nine recommendations made for law reform in the Final Report, seven were specific to the building and construction sector. These recommendations largely went to addressing the conduct displayed by building unions.

23. With respect to the CFMEU, the Heydon Royal Commission found that it is home to "longstanding malignancy or disease"<sup>35</sup> within the CFMEU and that lawlessness within the union was commonplace, with over 100 adverse court finding against the union since 2000. The report considered this history and found<sup>36</sup> that:

*"It points to both repeated unlawful conduct in the building and construction industry, and by the CFMEU in particular."*

24. Views akin to the above finding are regularly canvassed during court proceedings and have been the subject of much judicial commentary. A selection of this commentary follows:

*"The union has not displayed any contrition or remorse for its conduct. The contravention is serious... Substantial penalties for misconduct, prior to that presently under consideration, have not caused the CFMEU to desist from similar unlawful conduct."*

**(Tracey J, 21 November 2013, *Cozadinos v Construction, Forestry, Mining and Energy Union* [2013] FCA 1243)**

*"The circumstances of these cases ... nonetheless, bespeak a deplorable attitude, on the part of the CFMEU, to its legal obligations and the statutory processes which govern relations between unions and employers in this country. This ongoing willingness to engage in contravening conduct must weigh heavily when the need for both specific and general deterrence is brought to account."*

<sup>31</sup> Heydon Report, Chapter 5, page 396

<sup>32</sup> Ibid

<sup>33</sup> Ibid

<sup>34</sup> Ibid

<sup>35</sup> Heydon Royal Commission, Volume 5, p401

<sup>36</sup> Heydon Report Chapter 5, p397

**(Tracey J, 1 May 2015, Director of the Fair Work Building Industry Inspectorate v Construction, Forestry, Mining and Energy Union (No 2) [2015] FCA 407)**

*"There is clearly, as other judges have recorded, a strong record of noncompliance on the part of the Union through its officers with provisions of industrial relations legislation, although that does not mean that a disproportionate penalty can or should be imposed. I note that significant past penalties have not caused the Union to alter its apparent attitude to compliance with the entry provisions and restrictions under the FW Act."*

**(Mansfield J, 14 August 2015, Director of the Fair Work Building Industry Inspectorate v Construction, Forestry, Mining and Energy Union (No 3) [2015] FCA 845)**

*"The conduct has in common features of abuse of industrial power and the use of whatever means the individuals involved considered likely to achieve outcomes favourable to the interests of the CFMEU. The conduct occurs so regularly, in situations with the same kinds of features, that the only available inference is that there is a conscious and deliberate strategy employed by the CFMEU and its officers to engage in disruptive, threatening and abusive behaviour towards employers without regard to the lawfulness of that action, and impervious to the prospect of prosecution and penalties."*

**(Mortimer J, 13 May 2016, Director of the Fair Work Building Industry Inspectorate v Construction, Forestry, Mining and Energy Union (No 2) [2016] FCA 436)**

*"In the period between 1 January 1999 and 31 March 2014, the CFMEU itself or through its officials had been dealt with for 17 contraventions of s 500 or its counterparts in earlier legislation, and for 194 contraventions of s 348 of the FW Act or other provisions proscribing forms of coercive conduct."*

**(White J, 22 April 2016, Director of the Fair Work Building Industry Inspectorate v O'Connor [2016] FCA 415)**

*"The schedule paints, one would have to say, a depressing picture. But it is more than that. I am bound to say that the conduct referred to in the schedule bespeaks an organisational culture in which contraventions of the law have become normalised."*

**(Jessup J, 4 November 2015, Director of the Fair Work Building Industry Inspectorate v Construction, Forestry, Mining and Energy Union (The Mitcham Rail Case) [2015] FCA 1173)**

*"...the litany of contraventions...[and] the many prior contraventions of relevant statutory proscriptions by the Union...indicating a propensity, on the part of the Union, to engage in proscribed conduct."*

**(Goldberg, Jacobson and Tracey JJ, 10 September 2009, Draffin v CFMEU & Ors [2009] FCAFC 120; (2009) 189 IR 145)**

*"...the history tends to suggest that the Union has, with respect to anti-coercion and similar provisions of industrial laws, what the High Court in Veen described as 'a continuing attitude of disobedience of the law'..."*

**(Jessup J, 29 May 2009, Williams v Construction, Forestry, Mining and Energy Union (No 2) [2009] FCA 548; (2009) 182 IR 327)**

*"There is ample evidence of significant contravention by the CFMEU and its ideological fellow travellers. The CFMEU, as a holistic organisation, has an extensive history of contraventions dating back to at least 1999. The only reasonable conclusion to be drawn is that the organisation either does not understand or does not care for the legal restrictions on industrial activity imposed by the legislature and the courts."*

**(Burnett J, 28 February 2014, Director, Fair Work Building Industry Inspectorate v Myles & Ors [2014] FCCA 1429)**

*"The union has not displayed any contrition or remorse for its conduct. The contravention is serious... Substantial penalties for misconduct, prior to that presently under consideration, have not caused the CFMEU to desist from similar unlawful conduct."*

**(Tracey J, 21 November 2013, Cozadinos v Construction, Forestry, Mining and Energy Union [2013] FCA 1243)**

*“The overwhelming inference is that the CFMEU, not for the first time, decided that its wishes should prevail over the interests of the companies and that this end justified the means.”*

**(Tracey J, 17 March 2015, Director of the Fair Work Building Industry Inspectorate v Construction, Forestry, Mining and Energy Union [2015] FCA 226)**

*“The CFMEU is to be regarded as a recidivist rather than as a first offender.”*

**(Tracey J, 17 March 2015, Director of the Fair Work Building Industry Inspectorate v Construction, Forestry, Mining and Energy Union [2015] FCA 226)**

*“The record indicates an attitude of indifference by the CFMEU to compliance with the requirements of the legislation regarding the exercise of rights of entry.”*

**(White J, 23 December 2014, Director of the Fair Work Building Industry Inspectorate v Stephenson [2014] FCA 1432)**

*“...the pattern of repeated defiance of court orders by the CFMEU revealed by those four cases is very troubling.”*

**(Cavanough J, 31 March 2014, Grocon & Ors v Construction, Forestry, Mining and Energy Union & Ors (No 2) [2014] VSC 134)**

25. The above selection is just a very small sample from the array of evidence to which we earlier referred
26. Master Builders opposed the transfer of powers from the ABCC to the FWO because, in simple terms the FWO will not be anywhere near as effective as the ABCC in discharging this vital role. This is because the FWO does not have the same powers and overall core function as the ABCC.
27. The ABCC has a range of powers carefully designed to target the types of illegal conduct that are a feature of building and construction. These include additional powers to gather evidence which are mostly used to protect individuals providing that evidence from retribution and threats. The FWO does not have these powers.
28. The ABCC has a role to intervene in permit-qualification matters that are heard before the FWC and provides very important evidence to assist the Commission determine disputes and proceedings involving right of entry laws and compliance by permit holders. The FWO does not have this role.
29. The ABCC is obliged at law to take action and bring prosecutions against industry participants who break the law, including by providing representation to industry participants where relevant. The FWO does not provide this representation and its compliance policy is discretionary.
30. The ABCC is obliged at law to ensure its resources are deployed and functions are focussed commensurate with the level and type of inquiry received. The FWO does not have this obligation.
31. Any notion or assertion that the FWO could ever take over the work of the ABCC or be an equivalent or effective regulator for building and construction is completely false. The reality is that for the first time in decades, the entire building and construction industry has been left without any industry-specific protections or laws and left without any industry specific regulator to enforce those laws.
32. The abolition of the ABCC represented one of most significant setbacks for building and construction workplaces and industrial relations in Australia that Master Builders has ever witnessed. It will undoubtedly increase industry disputation, reduce worksite productivity, and make it harder for workplaces to implement lawful arrangements that suit their own business and needs.