

Master Builders Australia

2018 PRE-BUDGET SUBMISSION

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## 1 Master Builders Australia

This submission is made on behalf of Master Builders Australia Ltd.

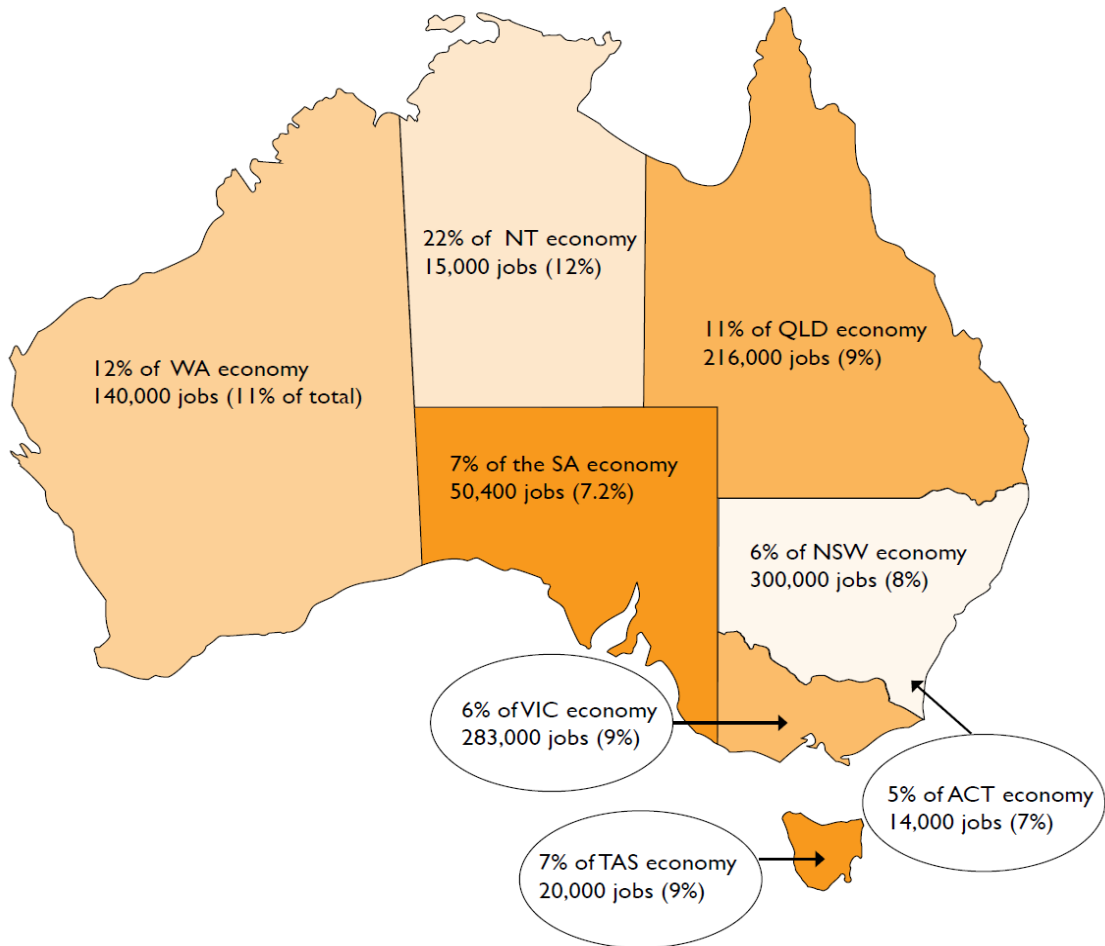
Master Builders Australia (Master Builders) is the nation's peak building and construction industry association which was federated on a national basis in 1890. Master Builders' members are the Master Builder State and Territory Associations. Over 127 years the movement has grown to over 32,000 businesses nationwide, including the top 100 construction companies. Master Builders is the only industry association that represents all three sectors, residential, commercial and engineering construction.

The building and construction industry is an extremely important part of, and contributor to, the Australian economy and community. It is the second largest industry in Australia, accounting for 8.1 per cent of gross domestic product, and around 9 per cent of employment in Australia. The cumulative building and construction task over the next decade will require work done to the value of \$2.6 trillion and for the number of people employed in the industry to rise by 300,000 to 1.3 million.

### **The building and construction industry:**

- Consists of over 340,000 business entities, of which approximately 97% are considered small businesses (fewer than 20 employees);
- Employs over 1 million people (around 1 in every 11 workers) representing the third largest employing industry behind retail and health services, and the largest industry for full time employment;
- Represents over 8% of GDP, with contributing over \$120 billion Gross Value Added activity to the economy - the second largest sector in the economy;
- Trains more than half of the total number of trades based apprentices every year, being well over 50,000 apprentices; and
- Performs building work each year to a value of approximately \$200 billion.

Figure 1: Representation of the state by state breakdown of the economic and employment contributions



attributable to the building and construction industry (MBA – 2016)

## 2 Introduction

2018 is shaping up to be a year of transition. The last of the major LNG projects are likely to reach the production phase – and with it the official end of the resources construction boom. We should also see the end of the east coast housing boom, with house prices and new construction activity set to moderate.

On the other hand, a surge in transport related investment, supported by an unprecedented commitment by Federal and State governments to infrastructure investment, is expected to support growth and help the transition as the housing boom loses steam over the next 12 months.

This should mean mixed fortunes for the different sectors of the building and construction industry across different geographies. These cyclical differences will present challenges, and may make the tasks of reform even more urgent.

To maximise the opportunities on offer from the upturn in infrastructure investment, we need to be ready. Australia needs a competitive tax and finance system to provide capital in the most efficient way possible. We need a training sector capable of providing the type of skills needed to support this investment pipeline. And we need a competitive regulatory framework to reduce the burden of red-tape which can add significantly to project costs, which are then passed onto consumers.

Master Builders commends the focus on housing affordability in the 2017 Budget and recommends that the 2018 Federal Budget maintain this focus. The past year has seen a number of notable reforms which will support a more efficient building and construction industry for years to come. Most notably:

- The reintroduction of the Australian Building and Construction Commission (ABCC) and the implementation of the Registered Organisations Commission (ROC). This has been a long held policy position of the MBA, its board and 32,000 members, and
- The National Housing and Investment Corporation (NHIC) – and the implementation of the National Housing Infrastructure Facility (NHIF) and the affordable housing bond aggregator (BA). Specifically, Master Builders welcomes the \$1 billion in funding allocated under the NHIF.

### 3 Economic Overview

There is a lot going right in Australia at the moment and the building and construction industry has been one of the best placed to take advantage of a number of recent opportunities.

China is supporting a surge in national income the likes of which we haven't seen since the height of the resources boom, resource production has hit its straps, commodity prices are holding up, and low interest rates have raised house prices, delivering one of the biggest increases in Australian household wealth in history.

In fact, in the past year the total wealth of Australia's 9.2 million households topped \$9.4 trillion, meaning that the 'average' Australian household is now a millionaire.

A summary of the key economic developments which impacted the building and construction industry in the past year:

- Inflation (CPI) in 2016-17 continued to undershoot. This has become a global challenge with pretty much all developed economies suffering the same symptoms. And although the leading indicators have been stirring for a while - profits (income for businesses) are up, employment is good, unemployment is low, and high house prices are making more Aussie millionaires by the day – there is no real sign that inflation is going to pick up soon.
- Record low interest rates have meant money is cheaper now than any time since its creation about 3000 years ago. As a result, household debt in Australia continued to creep up and is now approaching 100 per cent of GDP – high when compared to an average of around 63 per cent of GDP in comparable developed countries.
- It was Keynes that said “if you owe your bank 100 pounds, you have a problem. But if you owe a million, it has”. And Australia's household debt obsession has become the RBA's problem, which is why, although we expect interest rates to start rising in 2018, they won't rise quickly and perhaps not by much.
- The two things to watch out for here are: (1) if house prices continue to rise then the RBA may be forced to raise rates to curb demand, and (2) if

the US decides to raise rates more quickly than expected then the RBA may be forced to follow suit.

- Business investment suffered over the past year and is now lower than any time since 1992. Governments are filling the void with some ambitious public spending plans. Until private investment picks up, we are unlikely to hit long term GDP growth targets, or see much in terms of wages growth.
- Past resource investments began to pay in 2016-17. Coal and iron ore exports continued to break records as the year went on. As a result exports are booming and the current account deficit has shrunk significantly.
- House prices continued to prop up government budgets, through record capital gains receipts and stamp duties. But approvals took a dive and house finance figures are well past their peak. State Government Budgets may be challenged as a result, with revenue targets still banking on a big contribution from the property sector.
- Major project completions were not completely offset by the ongoing boom in housing construction, with total construction activity down by around 4.7% in 2016-17. New housing and renovations recorded growth of around 1.5%, while non-residential building and engineering construction work both fell in the year, by around 7.1% and 18.6% respectively.
- Housing construction is generally more job friendly than the big mining projects – and most of the job heavy work on these big mining projects was done well before their scheduled completions. As a result, construction employment jumped by 2.8% in 2016-17. Australia's workforce topped 12 million for the first time in 2016-17, with around 1 in every 5 new jobs created in the construction industry.

Looking forward we expect public investment in major road and rail projects to do most of the heavy lifting in the building and construction industry in the next year. Meanwhile, Australia's baked-in migration targets, which will add more than 200,000 new people per year to the population, will ensure that housing construction is kept ticking along – new housing



completions are expected to average more than 190,000 per year for at least the next four years.

## 4 Building and Construction Industry Outlook

It is important for Government to support, through ongoing structural reforms, those sectors which are well placed to make an immediate and positive contribution to the economy, productivity and employment. The building and construction industry is one such industry well positioned to support economic growth:

- The building and construction industry is the second largest industry in Australia, accounting for around 9 per cent of Gross Domestic Product and provides jobs for close to 1.1 million Australians – approximately 9 per cent of total employment in Australia.
- The cumulative building and construction task over the Budget forward estimates will require work done to the value of \$723 billion and for the number of people employed in the industry to rise by 5.3 per cent to 1.15 million.
- The building industry is also a 'horizontal' industry in the sense that building and construction work provides the physical capital for other industry to prosper and grow, as well as the for workers and the wider Australian population.
- The industry has deep supply chains through other industries such as manufacturing, transport, wholesale and retail and is the single biggest industry consumer of raw materials in the economy.

Master Builders takes the 'pulse' of the building and construction industry through its quarterly **National Survey of Building and Construction**. The Survey provides a snapshot of sentiments of industry participants across all sectors of the building and construction industry; residential, renovations, commercial building, engineering construction, sub-contracting and building materials suppliers. In sum:

- The reintroduction of the ABCC has given commercial builders a new injection of confidence as the watchdog regains power to restore balance to building sites across the country.
- With the leading indicators showing signs of weakness, this period of elevated confidence is not expected to last. Indeed, the index for future activity dipped during the June quarter 2017, supporting an expectation

for a weaker period of residential building activity looking past the next 6 months.

- **Business confidence** continued to improve in the June quarter, reaching an index score of 60 or above for the first time since June 2015. This peak in confidence is a product of a very healthy construction sector, particularly in the south eastern states where a housing boom has produced a record level of new housing construction over the past two years.
- Better profits and a healthy pipeline of work are supporting broad positive sentiment around **business conditions**. The index recorded a score of 58.3 for the June 2017 quarter, the highest index score for business conditions in over two years.

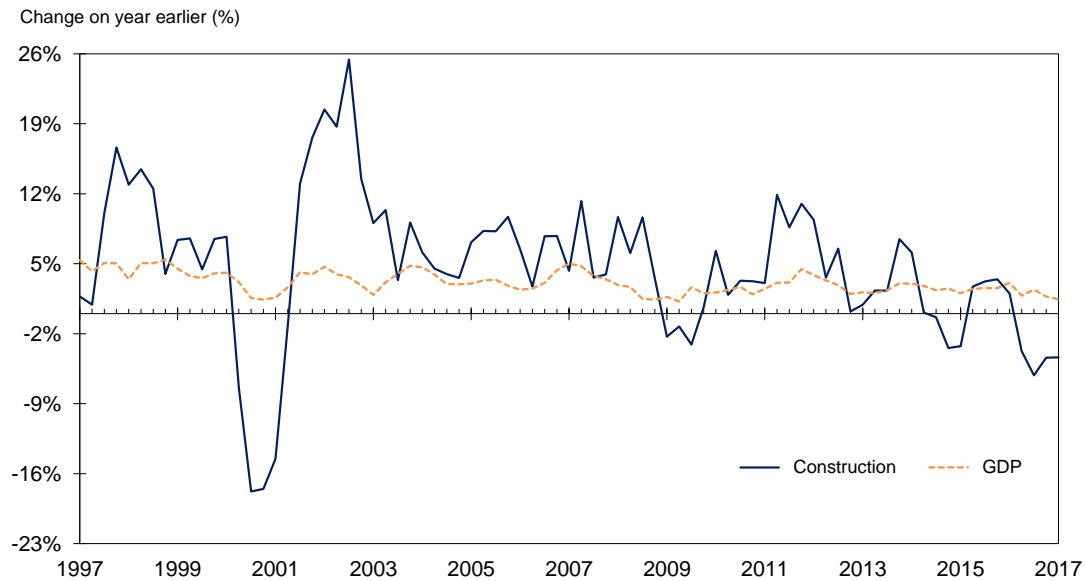
Turning to sectors, the cyclical nature of building and construction activity has produced another year of heightened risks and opportunities across different sectors and jurisdictions.

In the winners corner we have home builders in NSW and Victoria who have supported another record year for new housing completions – which topped 200,000 completions for the third year in a row. In the other corner we have the resources sector which continues to reel as multi-billion gas projects drop off.

But the latter is becoming less of a negative on overall activity, with a big chunk of the value of work on these big gas projects front loaded into the project schedule. This means major mining/gas related project completions will be less of a negative on growth from here on.

Overall the building and construction industry accounted for 9.8 per cent of GDP. But due to a number of major project completions in the mining and gas sectors, growth in building and construction was negative, recording a fall of 4.7 per cent in 2016-17.

## Construction and GDP growth (%)



Source: ABS, 5206.0

A feature of the past year has been the growing divergence in fortunes across the different construction sectors, and in some cases also across different geographies in the same sector.

For example, the **housing and renovations sector** performed well, recording growth of 1.5% in 2016-17, adding more than 200,000 extra home to Australia's housing stock, enough to put a dent (a small dent) in the east coast housing shortage.

For the second year in a row, the residential building sector kicked more goals than Dustin Martin:

- Revenue for home builders topped \$95 billion for the first time in history
- Total new housing completions topped 200,000 for the third year in a row – another record
- Building approvals have made a turnaround, suggesting the low point in residential construction forecast for next year may turn out to be higher than predicted, and
- Owner occupiers and first home buyers took back some lost market share as governments (State and Federal) and the financial regulators turned the screws on domestic and foreign property investors.

Following a decade of under building which added to a housing shortage of more than 165,000 homes, the last three years have seen more houses built in Australia than in any other period in our history. The latest house price data suggests the current housing construction boom is starting to have the desired effect on house prices, with house price growth moderating in Sydney, Melbourne and Brisbane over the year.

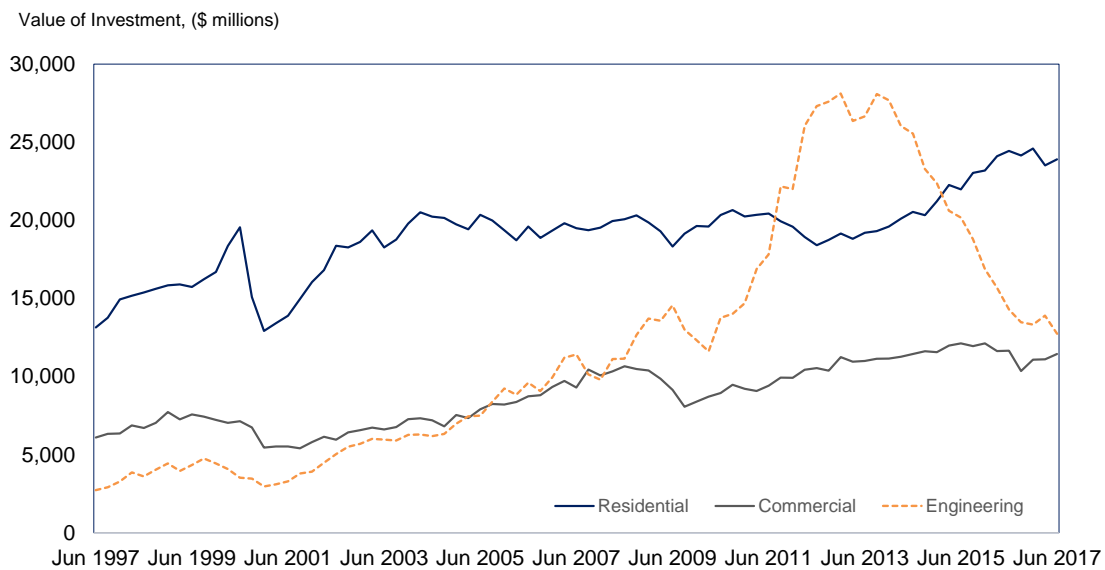
On the other hand, the **engineering construction sector** took a step backwards as more than \$100 billion worth of gas related project activity entered the production phase. At its peak in 2012, the engineering sector accounted for around 7 per cent of GDP. Last year that share dipped to around 3 per cent of GDP – taking more than \$65 billion out of the economy in four years.

The \$64 billion Gorgon LNG project was completed – Australia's biggest ever single investment project. To put this project into perspective, its final cost exceeded the total dollar spend on all road and rail projects in NSW for the past seven years. But looking forward, the engineering sector is set for a rebound as the tail end of the resources construction passes and transport investment picks up in 2017-18 and beyond.

**Non-residential building** (excluding mining and heavy engineering work) was soft, falling by 7.1 per cent in 2016-17. Despite better news for profits, private businesses remain reluctant to invest, with the latter down by 5.5 per cent in 2016-17, a fourth consecutive year of negative growth. Until there is some certainty from Canberra on issues like the Clean Energy Target and Company Taxes we don't expect activity to pick up.

Better commercial building approvals support a stronger outlook suggesting the worst may be over. But the constraints which are getting in the way of private businesses investing in new capacity need to be removed for the commercial building sector to really hit its straps.

### Growth across construction sectors (%)



Source: ABS, 8782.0.65.00

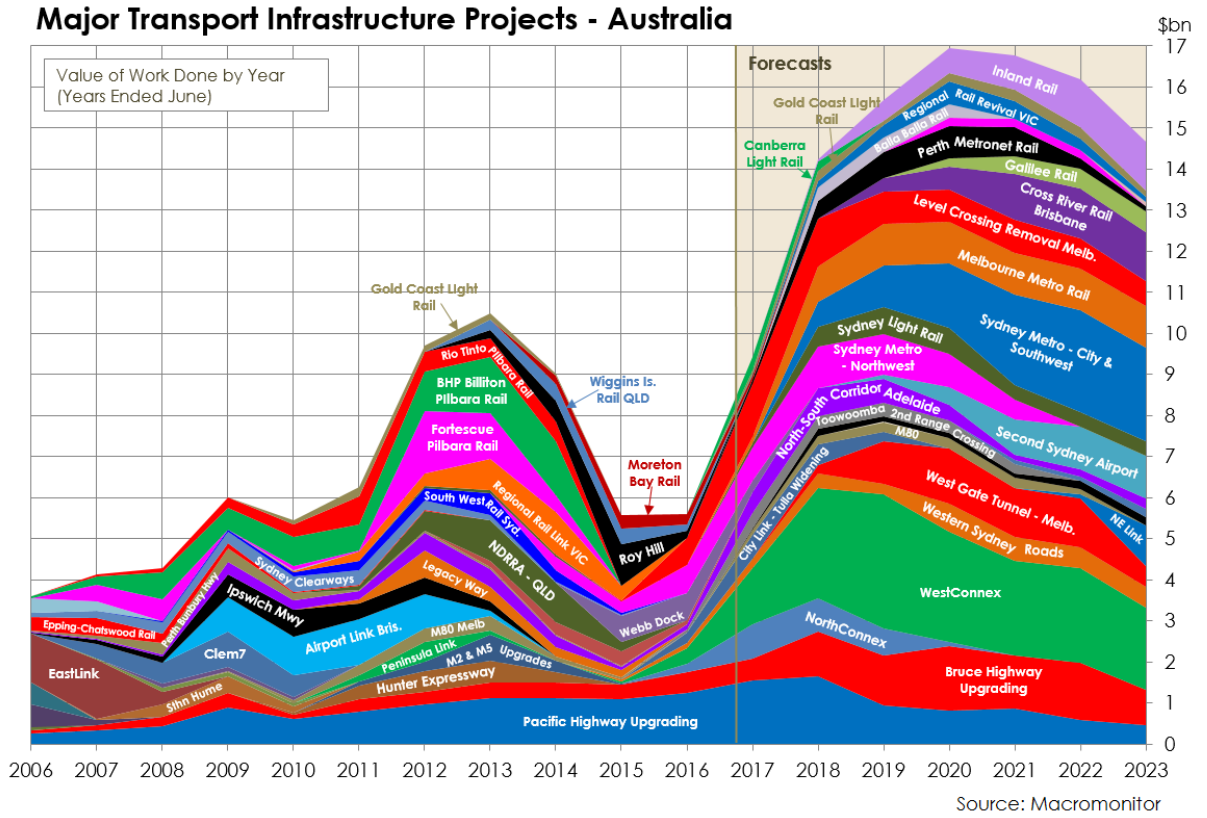
**Challenges ahead** are mounting, with the three main sectors of the building and construction industry all facing, to varying degrees, the same wider economic challenges and risks:

- The risk of conflict in our region is growing, with the possibility of tensions between China and the US;
- Chinese household debt is now higher than in Japan before their property bust in the early 1990's and higher than in the US before the sub-prime crisis;
- Interest rates are likely to move up in the next 12 months. This may challenge some highly leveraged homeowners and investors and will make capital more expensive for capital projects;

But there are also a number of **opportunities** to look out for:

- High population growth locked into the Federal Budget forward estimates means we need to build more than 190,000 new homes on average each year for at least the next five years – this is higher than any year before 2014.
- The transport project pipeline is huge. The commitment from the Federal Government and the states into new transport projects is unprecedented.

This will be the next construction boom and we expect to see the peak in the next couple of years.



## 6 Summary of Main Recommendations

### Infrastructure

- 6.1 To meet the needs of a growing economy, public infrastructure spending across the different levels of government, on non-defence related infrastructure, should be lifted progressively to 6 per cent of GDP by 2020.
- 6.2 Master Builders calls for a two pronged policy approach for improving the financing of Australia's infrastructure needs, by the:
- public sector – increased direct financing of public economic and social infrastructure, with incentives for state and territory governments to use funds from the sale of existing assets over debt financing;
  - Progress road pricing reform to establish a more sustainable model for funding transport projects.
  - private sector – identifying and then actioning market-based opportunities, for example in matching the demand-side (infrastructure providers) with the supply-side (financial institutions and other interested investors); and
  - look into alternate PPP financing relationships to encourage private sector engagement. For example through better value capture models, transit orientated development, or better land use strategies.
- 6.3 Master Builders welcomes the commitment by Government to establish a 10 year allocation for funding for road and rail projects. This is expected to deliver \$75 billion in project funding from 2017-18 to 2026-27. Notable programs already announced under this funding package include:
- \$10 billion National Rail Program,
  - \$5.3 billion to establish the WSA Co to develop Western Sydney Airport, and
  - \$8.4 billion equity investment by the Federal Government to the Australian Rail Track Corporation for the Melbourne to Brisbane Inland Rail project.



## Housing, Land Use and Taxation

- 6.4 Master Builders housing policy advocates:
- maintaining the tax-exempt status of the family home;
  - retaining negative gearing provisions;
  - provision of an appropriate level of public housing, starting with decisive action to provide suitable accommodation for the more than 43,000 persons, assessed as being in greatest need, on public housing waiting lists. This equates to unmet demand for over 16,500 public housing dwellings; and,
  - equitable minimum energy efficiency standards which take a broader view of energy efficiency and adequately account for behavioural changes and innovation.
- 6.5 Master Builders supports the establishment of the NHIFC and its proposed mandate to manage the operations of the BA and the NHIF.
- 6.6 Given failure in previous programs such as the National Affordable Housing Agreement (NAHA) to boost housing supply, Master Builders recommends any funding to be allocated to State or local governments be subject to conditional arrangements which ensure Federal funding is achieving its intended outcomes.
- 6.7 Given planning and zoning are the jurisdiction of State and local Governments, Master Builders recommends the Federal Government play a role through the implementation of incentive (or competition) payments. These could be administered through new funding arrangements such as the National Housing Infrastructure Facility (NHIF), whereby for example, funding may be subject to specific performance targets.
- 6.8 Master Builders advocates urgent reform of inefficient and costly infrastructure taxes, charges and levies.
- 6.9 Any changes to the Capital Gains Tax (CGT) discount (CGT) or negative gearing rules for property assets should be considered together. There is considerable evidence in several research papers (mentioned below) that it is

the combination of these tax deduction arrangements which may be providing greater incentives to some types of buyers than others. This research also shows that negative gearing is not a tax loophole for the rich, with middle income (mum and dad) investors who own one investment property, making up by far the largest group of property investors who access negative gearing tax concessions.

- 6.10 Reforms to property taxation must be considered as part of a wider reform agenda which extends across all levels of government. Given land is a factor of production, like capital and labour, a more effective reform must consider the relationship between taxes on these factors of production – not simply an exchange of one property tax for another.
- 6.11 A direct swap of stamp duties for land taxes is not a solution to the high tax rates levied on the building and construction industry. In this instance, Master Builders disagrees with the recommendations of the recent *Productivity Commission: 5 Yearly Productivity Review*. Whilst agreeing that land tax is a more efficient tax than stamp duties, Master Builders believes that there are better avenues for reform than simply swapping one tax on property for another.
- 6.12 The approach taken by the ACT Government to swap stamp duties for land taxes (and rates) provides a case study as to how this transition may take place.
- Evidence shows that this reform has increased the tax liability (and therefore the distortion) on the property sector and has also proven not to produce the efficiency gains in terms of fewer vacant bedrooms in the current housing stock.
  - In the last four years, rates and land taxes on a rented residential property with an unimproved land value of \$500,000, have increased by more than 20%, from \$8,300 to over \$10,000 per year.
  - On a comparatively priced commercial building land rates have increased by around 120% from approximately \$14,820 in 2012-13 to \$32,475 in 2017-18. As a result commercial vacancy rates in the ACT are at 16% - the highest on record. There is a consensus amongst commercial property owners in the ACT that these rate rises are unsustainable.

## Small Business and Deregulation

- 6.13 Master Builders welcomes the Government's intention to reduce the regulatory burden through an aggressive agenda to cut \$1 billion in red and green tape, and would encourage the Government to focus on removing regulations which have the greatest impact on small businesses.
- 6.14 Master Builders recommends accelerated depreciation programs be extended for at least one more year. As a highly capital intensive industry made up of more than 350,000 small and medium sized businesses, the extension of the accelerated depreciation program was a big win for building and construction businesses from the previous Budget (2017).
- 6.15 Master Builders supports the Governments Business Simplification Agenda and would support additional funding into the program to undertake research into the performance of local Governments and Government agencies and programs.
- 6.16 An independent body, such as the Australian Council for Competition Policy, should be tasked with reporting on progress in reviewing Government commercial policies and ensuring privatisation and other commercial processes incorporate competition principles.
- 6.17 Master Builders further recommends that Government Procurement rules be reviewed to better allow small and medium sized businesses to bid for government tenders in the building and construction industry. This could be achieved in several ways, including:
- By splitting tenders into small projects rather than tendering the total project and then allowing the head contractor to sub-contract the various elements of the project, and
  - Small and medium sized business content clauses which mandate a certain share of the project budget to small and medium sized businesses – this could also require greater local content.
- 6.18 Master Builders recommends that the reduction in the company tax rate, proposed in the 2017 Federal Budget be implemented immediately and in full. This includes a reduction in the tax rate for large companies.

- 6.19 Master Builders also recommends that the timeline for changes in the company tax rate be accelerated if the Budget position supports it. The sooner the company tax rate is lower the sooner Australia will get its fair share of international (and domestic) capital investment.
- 6.20 For the property sector specifically, Master Builders recommends the Treasury undertake a review of the cumulative impost of taxes levied on property and land. Combined, the property and construction industries contribute a greater share to the tax take than to GDP. This is an unfair tax impost on the industry which pushes up the price of houses, schools and hospitals.

### **Workplace Programs and Agencies**

- 6.21 Recurrent funding for the Australian Building and Construction Commission (ABCC) be increased by not less than \$20m over the forward estimates period;
- 6.22 The general role and function of Safe Work Australia (SWA) be reviewed and critically considered before any alterations to Government appropriations are considered;
- 6.23 The return to participating employers of information provided to Workplace Gender Equality Agency (WGEA) be increased so as to better educate the business community as to its purpose and value;
- 6.24 The Government return to its previously held position with respect to the Fair Entitlements Guarantee (FEG) providing assistance and relief to a level not greater than the National Employment Standards (NES) in order to avoid gaming and/or the creation of a morale hazard;
- 6.25 The increased role and functions proposed for, or already affecting, the Office of the Federal Safety Commissioner (OFSC) and Registered Organisations Commission (ROC) be carefully assessed in terms of resource impact and increases be appropriated to ensure core functions remain capable of being discharged;
- 6.26 A fund of at least \$60 million be established by the Fair Work Ombudsman (FWO) to provide relief to employers and apprentices in Queensland who may be adversely affected by court findings relating to the operation of the OBO (apprentices and trainees, wages and conditions) and modern awards; and

- 6.27 The Government review the role of the Member Assist function within the Fair Work Commission (FWC) and, if necessary, boost the number of appointed Commission members to ensure that appropriate and experienced scrutiny is given to functions such as the approval of enterprise agreements.

### **Workforce Skills**

- 6.28 In terms of workforce skills the budget should:
- Reaffirm the need for a VET regime that boosts skills and creates jobs;
  - Acknowledge the contribution of the BCI to skills development and employment contribution both within and related to the sector, and the risks more broadly to the economy and labour market if projected shortages are not addressed;
  - Focus on measures that facilitate greater jurisdictional consistency and an increased focus on quality;
  - Set aside a significant appropriation for a targeted campaign to elevate the status of VET and a trade career in terms of community and educator perception;
  - Determine that the BCI represents a special case in terms of future economic and skills growth potential, creating much scope to examine the need for an industry specific skills, training, related support programmes, along with industry specific employment schemes, and set aside funding for this purpose;
  - Announce the initiation a broader systemic review of VET to determine where reform is necessary, commencing with a targeted examination of blockages and delay in the current regime. The review should be conducted with the aim of ensuring industry is the key driver of VET initiatives and determining future skills needs; and
  - Focus in initiatives that reduce the regulatory burden and VET compliance costs for training providers, employers and educators, and recognise the status of Industry RTOs as distinct from other 'non-public' providers.

## **Building Regulation**

- 6.29 Master Builders recommends improvements to strengthen compliance and enforcement in relation to non-conforming and non-compliant building products must establish a system that's easier to use and has the least cost to industry while ensuring the quality, safety and integrity of Australia's built environment. Programs and agencies delivering this policy reform should be adequately resourced to do this work effectively.
- 6.30 Master Builders recommends appropriate resourcing is made available to the Department of Industry to ensure this is done effectively and to support pilot programs that enable the development of better systems that can align the existing suite of third party product certification schemes, ensure they are operating to a minimum standard and provide consistent information from a common portal.
- 6.31 Master Builders has consistently advocated for no increase to the existing Green Star rating for residential buildings and notes that changes to building stringency should not be the sole focus for delivering energy efficiency targets in the built environment.
- 6.32 Master Builders Australia believes that the Commonwealth should revise the nature of its Memorandum of Understanding (MOU) with Standards Australia (SA) and in doing so should seek the views of relevant industry stakeholders.
- 6.33 The role that SA play and the documents they generate are becoming increasingly referenced by Parliaments of all jurisdictions and are particularly relevant to matters of public importance, such as the use and reference to standards in other instruments (such as Modern Awards or the National Construction Code).
- 6.34 Master Builders believes that where reference to a standard is required by any type of administrative instrument, guideline or Code, it must be freely and publicly available at no cost.

## 7 Infrastructure and Cities

- 7.1 To meet the needs of a growing economy, public infrastructure spending across the different levels of government, on non-defence related infrastructure, should be lifted progressively to 6 per cent of GDP by 2020.
- 7.2 This rate of spending was last seen post WWI when greater investment was need to support industrial growth and urban renewal, following very high population growth coming from Europe.
- 7.3 The pipeline of major transport projects in our major cities will require a similar level of investment.
- 7.4 Funding for this investment should come from the sale of existing government owned assets. Doing so would reduce the need for debt financing and not add significantly to the Federal Government balance sheet.
- 7.5 Master Builders calls for a broader and deeper role for the private sector in infrastructure supply in Australia. This may require a more innovative approach to financing models, or perhaps PPP relationships which include government finance which accounts for the future benefits accrued to government as a result of the infrastructure investment. This should not simply substitute for inadequate public sector infrastructure supply especially in uneconomic (both still fundamentally worthwhile) and/or social infrastructure which is the proper role.
- 7.6 Governments may look to encourage superannuation companies into infrastructure assets, whether by purchasing existing infrastructure assets (that is, privatisation; with revenues being used for 'capital recycling'); and/or funding the creation of net new infrastructure assets ('additionality'), either directly or indirectly (through the purchase of special purpose tradeable financial instruments).
- 7.7 However we would firmly recommend against any mandated requirement for superannuation companies to invest in any specific asset class. The primary function of Australia's superannuation industry is to provide retirement incomes for superannuation fund holders, with investment strategies and practices of

superannuation institutions directed solely toward delivering the optimal risk-return outcomes for fund holders.

7.8 Master Builders calls for a two pronged policy approach for improving the financing of Australia's infrastructure needs, by the:

- public sector – increased direct financing of public economic and social infrastructure, with incentives for state and territory governments to use funds from the sale of existing assets over debt financing;
- private sector – identifying and then actioning market-based opportunities, for example in matching the demand-side (infrastructure providers) with the supply-side (financial institutions and other interested investors); and
- look into alternate PPP financing relationships to encourage private sector engagement. For example through better value capture models, transit orientated development, or better land use strategies. Master Builders would welcome the opportunity to speak further to Treasury about these alternate financing models.

7.9 Key elements of the policy which are properly the function of the Government/ public sector include:

- increasing the direct public sector spending on key non-defence related economic and social infrastructure (across all levels of Government) to at least 6 per cent of GDP by 2020;
- minimising bid-costs for infrastructure provision/financing to ensure the broadest possible range of engagement by potential investors (including simplified and streamlined processes for smaller investors in infrastructure);
- minimising the political risk, in particular 'start-stop' decision-making, and changing the processes, rules or other key elements of a project once underway;
- expanding the use of capital recycling and privatisations, or other mechanisms for the transfer of existing and prospective infrastructure assets to the private sector; and,



- Progress road pricing reform models to move to a more sustainable platform for transport project funding.

## **Building Australia**

7.10 Master Builders welcomes the commitment by Government to establish a 10 year allocation for funding for road and rail projects. This is expected to deliver \$75 billion in project funding from 2017-18 to 2026-27. Notable programs already announced under this funding package include:

- the \$10 billion National Rail Program,
- \$5.3 billion to establish the WSA Co to develop Western Sydney Airport, and
- the additional \$8.4 billion in equity investment by the Federal Government into the Australian Rail Track Corporation to deliver the Melbourne to Brisbane Inland Rail project.

7.11 Master Builders believes the level of government funding to be adequate to support investment in future infrastructure projects to meet future demands of the economy and to start filling the existing infrastructure shortfall.

7.12 However, Master Builders does not support the removal of capital recycling programs, which have been largely replaced by debt and equity funding arrangements. Using the latter may add to the Government's debt levels and make the process of Budget consolidation harder.

7.13

## **Cities Policy**

7.14

Master Builders supports the Federal Government's Smart Cities Policy, to make our cities more liveable, more productive, and more prosperous.

7.15

As part of the Government's recently announced Smart Cities program, Master Builders supports the Government's initiatives, to invest in smart and more efficient energy technologies to put downward pressure on energy bills, as well as the \$100 million per year investment target.

Master Builders also supports the establishment of the Commonwealth Government's \$50 million competitive Smart Cities Program, to support local governments to collaborate and apply innovative technology-based

approaches to improve the liveability of cities and their suburbs, and provide incentives to open up their data and partner with other regional stakeholders.

There is scope for this program to engage with others to support efficient cities development. For example, funding under the National Housing Infrastructure Facility could support transport project funding under a broad cities deal arrangement.

7.16 There is also considerable scope to work in step with state/territory government cities development policies. For example, the Housing Accelerator Fund in NSW, which provides \$113 million for infrastructure to support new housing construction.

7.17 Master Builders would support an extension of this program. In addition to the cities deals already underway.

7.18 For example, support should be given to the Sunshine Coast for new residential developments and build new road and rail infrastructure in the region. The region is experiencing high population growth and residential development which will stress current infrastructure capacity in the region.

### **Land use strategies**

7.20 Anti-competitive land and zoning policy must be addressed as a first priority if housing affordability, and the challenges of first home buyers seeking to enter the housing market are to be addressed seriously. Restrictive land policies by state/territory and local governments are not in the public interest and would likely fail any public interest test (as outlined under Recommendation 8 of the Harper Review (2015)).

7.21 Further to Recommendation 8, Master Builders supports measures outlined under Recommendation 9 of the Harper Review (2015). "State and territory governments should subject restrictions on competition in planning and zoning rules to the public interest test, such that the rules should not restrict competition unless it can be demonstrated that the benefits of the restriction to the community as a whole outweigh the costs, and the objectives of the rules can only be achieved by restricting competition."

7.22 The following competition policy considerations should be taken into account and form the basis of reforms in planning and zoning policies:

- *Arrangements that explicitly or implicitly favour particular operators are anti-competitive.*
- *Competition between individual businesses is not in itself a relevant planning consideration.*
- *Restrictions on the number of a particular type of retail store contained in any local area is not a relevant planning consideration.*
- *The impact on the viability of existing businesses is not a relevant planning consideration.*
- *Proximity restrictions on particular types of retail stores are not a relevant planning consideration.*
- *Business zones should be as broad as possible.*
- *Development permit processes should be simplified.*
- *Planning systems should be consistent and transparent to avoid creating incentives for gaming appeals.*

7.23 Master Builders acknowledges that planning and zoning policies are outside the jurisdiction of the Federal Government. However, there is a role to play in providing incentives for reforms.

7.24 It has been a long held policy position of Master Builders for the Federal Government to support reforms in planning and zoning policies at the state and local government levels by offering competition or incentive payments to reward sensible reforms.

7.25 One area that should be subject to an immediate competitive review is the land release policies of state/territory and local governments. Land is an important input to the production of goods and services and a source of amenity for consumers. Small policy improvements in this area could yield large benefits to the economy and to consumers.

7.26 Better land use strategies should also be a reform priority. According to the recent PC five yearly review into national productivity, better functioning cities could yield up to \$29 billion in increased GDP. Perhaps more importantly, better land use strategies can significantly improve people's living standards, reducing the cost of housing and other built capital, reducing transport costs and

commute times. Land use controls have a more wide spread impact on the lives of ordinary Australian's than any other regulation.

### **Regional Growth Fund**

- 7.27 Master Builders supports the mandate of the Regional Growth Fund and considers the level of funding adequate to achieve its objectives. We recommend the funding package of \$472 million for regional infrastructure projects be included in full in the four year Budget estimates.
- 7.28 Master Builders supports the implementation of \$272 million in grants funding, allocated in \$10 million tranches to support major infrastructure projects in regional areas.
- 7.29 Master Builders recommends that this program seek to work with state and territory programs. For example, the Victorian Regional Jobs and Infrastructure Fund (RJIF) and the NSW Regional Growth Fund. These programs must work together if regional infrastructure is to be delivered in an efficient way.

### **Regional Investment Corporation**

- 7.30 Master Builders supports the establishment of the Regional Investment Corporation (RIC) and the mandated functions of the Corporation as outlined in the *Regional Investment Corporations Bill 2017*.
- 7.31 Master Builders supports the RIC as a separate entity within the Agriculture portfolio, and considers the allocation of funding of \$28.5 million to be adequate to establish the Corporation and fund its operations (excluding revenue generated through the facilitation of loans) over the four year Budget estimates.
- 7.32 The allocation of \$2 billion for the Farm Business Concessional Loan Scheme and \$2 billion for the National Water Infrastructure Loan Facility are considered reasonable to fulfil the objectives of the program.
- 7.33 Master Builders recommends that funding the \$2 billion in funding for the Farm Business Concessional Loan Scheme and \$2 billion for the National Water Infrastructure Loan Facility be allocated in full in the four year 2018 Budget estimates.

## **Housing Infrastructure**

- 7.34 Infrastructure packages aimed at the housing sector specifically, including the National Housing Infrastructure Facility (NHIF) and the National Housing Finance and Investment Corporation (NHIFC) can be found in chapter 8, Housing.

## 8 Housing

- 8.1 A co-ordinated and proactive public policy agenda by Federal, State and Territory, and local Governments is needed to facilitate home ownership. The cost of a family home has increasingly become unattainable as a confluence of circumstances has worked against would-be Australian homeowners, particularly first home buyers.
- 8.2 Key factors that have led to a worsening of housing affordability include:
- shortage of available land and inefficient land release strategies;
  - infrastructure costs being loaded onto developers and in turn passed on to home owners;
  - excessive infrastructure specifications in subdivisions;
  - excessive development levies, taxes and charges imposed by State and Territory Governments;
  - excessive planning and building requirements;
  - regulatory creep pushing codes and standards higher than required; and,
  - uncoordinated State/Territory and local Government environmental regulations.
- 8.3 Master Builders calls on the Federal Government, through a reinvigorated COAG, to provide ex poste 'competitive, efficiency dividend' payments to State, Territory and local Governments for delivering housing affordability policy outcomes against key performance metrics. Master Builders' position is consistent with Recommendation 48 – competition payments, of the Australian Government's Competition White Paper (Harper Review, 2015)<sup>1</sup>.
- 8.4 The housing supply issue has not been resolved. The two key recommendations flowing from the Henry Review's analysis of Australia's housing affordability challenge — free up zoning and planning; and setting

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<sup>1</sup> Detailed policy description is found under section 8.8 – 8.12 in later sections of this submission.

appropriate infrastructure charges (developer charges) must be top priorities for the Federal Government.

8.5 Master Builders advocates urgent reform of inefficient and costly infrastructure taxes, charges and levies.

8.6 Master Builders housing policy also advocates:

- maintaining the tax-exempt status of the family home;
- retaining negative gearing provisions;
- provision of an appropriate level of public housing, starting with decisive action to provide suitable accommodation for the more than 43,000 persons, assessed as being in greatest need, on public housing waiting lists. This equates to unmet demand for over 16,500 public housing dwellings; and,
- equitable minimum energy efficiency standards which take a broader view of energy efficiency and adequately account for behavioural changes and innovation.

8.7 Master Builders does not support further reviews into the housing sector. There is a consensus in the research in terms of the challenges which must be addressed to improve efficiency and affordability in the industry. These reports include:

- the White Paper on Taxation (Henry Review, 2009), the subsequent Treasury discussion papers “Re;Think: Tax Discussion Paper”,
- the Senate Inquiry into housing affordability and subsequent reports (2015)
- the House of Representatives Standing Committee “Report on the Inquiry into Home Ownership” (2016), and
- the recent Treasury inquiry into innovative financing models for affordable/social housing. All reports agree that the barrier to supply must be removed as a first step in any serious reform agenda.

### **National Affordable Housing and Homelessness Agreement**

- 8.8 Master Builders supports the Government's plan to renegotiate funding under this program. Previous funding has not had the desired outcomes and in some cases has seen the stock of public and affordable housing in some states fall.
- 8.9 This may be another opportunity for the Federal Government to put conditions around funding which help to ensure the desired outcomes of improving access to affordable housing for low income households.
- 8.10 Master Builders recommends that all new funding issued under the renegotiated Agreement to be subject to conditional arrangements, which include, at the very least, standard targets to boost the stock of affordable and public housing (or community housing). Other performance metrics may include:
- Vacancy rate targets for community/public housing stocks.
  - Evidence that investments in new stock meets the changing demands of those accessing public and community housing.
  - Geographic distribution, with a focus on providing community and public housing where it is needed most.
  - That investments into projects made through the Agreement are delivered on budget and on time.

#### **National Housing Finance and Investment Corporation (NHIFC)**

- 8.11 Master Builders supports the establishment of the NHIFC and its proposed mandate to manage the operations of the BA and the NHIF.
- 8.12 Master Builders has made an official response to the Treasury Consultation Paper; *Establishment of an Australian Affordable Housing Bond Aggregator report*, and supports Recommendation 1 in full: *“Government should commence work to establish the Bond Aggregator (BA) as part of the NHIFC, noting that Community Housing Providers (CHPs) are likely to be the primary agents to maintain and expand the stock of affordable housing.”* In addition, we recommend that the NHIFC work with community housing providers to speed-up access to credit through the BA. Master Builders' full response to the Consultation Papers can be found in the attachments to this submission.



- 8.13 Master Builders also supports recommendation 8 of the *Establishment of an Australian Affordable Housing Bond Aggregator report*, in full. Given the growing number of households on the waiting list for public housing, which is currently estimated at over 190,000, it is important that the NHIFC is established as intended on 1 July 2018 and should aim to issue its inaugural bond by the end of calendar year 2018.
- 8.14 Given planning and zoning are the jurisdiction of State and local Governments, Master Builders recommends the Federal Government play a role through the implementation of incentive (or competition) payments. These could be administered through new funding arrangements like the National Housing Infrastructure Facility (NHIF), whereby for example, funding may be subject to specific performance targets.

### **National Housing Infrastructure Facility (NHIF)**

- 8.15 Master Builders considers the implementation of the \$1 billion NHIF as a reasonable and adequate response to the recommendations of the *Affordable Housing Working Group Report: Innovative Financing Models to Improve the Supply of Affordable Housing (2016)*.
- 8.16 However, there are a number of additional items which should be considered before making a decision on the structure of the NHIF.
- 8.17 Specifically, the findings of the *National Housing Finance and Investment Corporation: Consultation Paper* notes total funding under the NHIF to be split into:
- \$600 million in lending,
  - \$225 million in equity investment, and
  - \$175 million in grants
- 8.18 Given that a number of projects to unlock new housing supply may not generate direct revenue, Master Builders recommends a more detailed review be undertaken into the allocation of funding under the three financing streams noted above. Specifically, a review of the type of projects which may be eligible for the different forms of financing and whether this matches up to projects identified as priorities to address chokepoints in supply – in line with the original mandate of the NHIF.

- 8.19 There are a number of other issues which are not directly covered in the Consultation Paper, which are also worth considering in the final assessment of the NHIF, including:
- How do the lending and equity finance components support projects which may not have a revenue stream?
  - Given that some States have a credit rating which is comparable or better than that of the Federal Government, how would the lending finance component of the NHIF endeavour to service these markets?
  - Is there an example of a project which acts to unlock new housing supply which is also eligible for Federal equity in the underlying asset?
  - How do the different financing streams support the Federal Government's ability to set supply targets and place conditions around funding to local governments?
  - Given it is not possible for the Federal Government to provide funding directly to local governments, how would the NHIF interact with relevant State agencies?
  - Local governments are often not the ones who provide the amenity infrastructure to new housing developments. How would the NHIF engage with the private sector on PPP developments, or where private developers are responsible for providing amenity infrastructure?
  - Often developer charges and council fees are passed onto new home buyers to recoup developments costs. How would the Federal Government ensure these charges are equally adjusted in cases where Federal funding is used to develop this infrastructure?
- 8.20 Master Builders would welcome the opportunity to talk further with the Housing Unit Team to develop responses to these additional questions.
- 8.21 Detailed research commissioned by Master Builders into the potential benefits of investment under the NHIF found that investments made under the NHIF could support the construction of an additional 100,000 new houses in the next five years if implemented immediately and targeted at the most critical chokepoints in the housing market.

- 8.22 Given failure in previous programs such as the National Affordable Housing Agreement (NAHA) to boost housing supply, Master Builders recommends any funding to be allocated to State or local governments be subject to conditional arrangements which ensure Federal funding is achieving its intended outcomes – in this case to increase the supply of new housing in areas which need it most. New housing supply targets set and agreed upon at the time of transaction would be the most the prudent and simple measure.
- 8.23 The NHIFC may also seek to use other possible metrics as conditions for funding, including but not limited to: a requirement to reduce the waiting list for community/public housing, distribution targets, density targets for inner city areas, house price growth targets, land affordability targets, greater reporting transparency around infrastructure and council fees for both revenue and expenditure. Master Builders would welcome the opportunity to work with the Housing Unit Team at Treasury to develop these metrics.

#### **Affordable Housing Bond Aggregator (BA)**

- 8.24 Master Builders supports the implementation of a Bond Aggregator (BA) to be administered under the NHIFC, and to provide *“cheaper and longer-term finance for community and affordable housing providers”* in accordance with the initial recommendations in the *Affordable Housing Working Group Report: Innovative Financing Models to Improve the Supply of Affordable Housing*, and Recommendation 4 of the *Establishment of an Australian Affordable Housing Bond Aggregator report* (the BA Consultation Paper).
- 8.25 To appeal to the widest possible audience of consumers it is important for the BA to issue wholesale bonds, consistent with recommendation 2 of the Consultation Paper.
- 8.26 Master Builders also supports the implementation of a pass-through model, noting the effectiveness of this approach overseas, consistent with Recommendation 3 of the Consultation Paper.
- 8.27 The preferred financial arrangement would be for the BA to not be subject to a Government guarantee. There is a risk that such a guarantee could encourage adverse lending behaviours by the BA. The analysis in the Consultation Paper also notes *“that there is sufficient sector debt (approx. \$1 billion) to supply market demand.”*

- 8.28 Master Builders acknowledges that without a guarantee the “*BAs strong credit may be a function of robust and strict lending criteria*” which could limit the number of loans and the scope of community housing providers able to access funding under the BA.
- 8.29 Master Builders therefore agrees that a standalone BA “*may not be successful*” and may result in “*onerous credit policies which disincentives CHP participation.*” However, it is recommended that subsequent research into the viability of a standalone BA be undertaken before a decision is made as to whether the BA will receive a Government guarantee.
- 8.30 Subsequently, it is recommended that if a Government Guarantee is provided, that lending behaviour is monitored adequately to ensure adverse lending practises do not emerge.
- 8.31 Given the poor outcomes of the National Affordable Housing Agreement (NAHA) as noted in the Productivity Commission Report on Government Services (2017), Master Builders Recommends that new funding to support the affordable housing sector be conditional on new affordable housing supply targets and that any existing funding under the NAHA be redirected under the BA.
- 8.32 Master Builders recommends that funding allocated under the BA is prioritised to projects which directly boost the supply of housing and land for new affordable housing developments as recommended by the *Affordable Housing Working Group Report: Innovative Financing Models to Improve the Supply of Affordable Housing (2016)*, noting “*that the major barrier to the supply of affordable housing is the financing gap.*”
- 8.33 Master Builders recommends that funding is targeted at projects which most effectively close the ‘financing gap’ as defined in the *Affordable Housing Working Group Report: Innovative Financing Models to Improve the Supply of Affordable Housing (2016)*, noting “*that no innovative financing model will close this (financing) gap and a sustained increase in the investment by governments is required to stimulate affordable housing production... and investment.*”

## Negative Gearing and Capital Gains Tax (CGT)

8.34

It is important that recommendations for changes to the Capital Gains Tax (CGT) discount (CGT) or negative gearing rules for property assets be considered together. There is considerable evidence in several research papers (mentioned below) that it is the combination of these tax deduction arrangements which may be providing greater incentives to some types of buyers than others. This research also shows that negative gearing is not a tax loophole for the rich, with middle income (mum and dad) investors who own one investment property, making up by far the largest group of property investors who access negative gearing tax concessions.

8.35

With this in mind, Master Builders' policy for the treatment of negative gearing and the CGT discount also considers the following:

- Is open to the consideration of measures which target those who may be over using negative gearing deductions without punishing typical 'mum and dad' investors.
- Very high house price growth, coupled with very low interest rates have increased the use negative gearing arrangements for property assets. This is a cyclical trend which is likely to reverse with cyclical changes in the market for property – when the price cycle moderates again.
- Negative gearing and CGT have a very limited impact on house prices or house price growth.
- That removing negative gearing rules from property, or certain types of property would increase the effective tax rate on the property sector.
- In terms of the economy, treating one form of investment different to others can have long-term consequences for the efficient allocation of capital, and long term productivity. Policy reforms must be considered with this in mind and as much as possible, not encourage one form of investment over others.
- Negative gearing increases the number of available rental properties and in doing so reduces rental prices and reduces the burden of providing public housing by state and territory governments. More aggressive policies to remove negative gearing rules altogether, or to exclude large portions of the housing stock from this treatment, may put pressure on other

government programs such as the Commonwealth Rent Assistance (CRA) Program and State Government public housing programs.

- Negative gearing rules have been removed in the past, only to be quickly reintroduced due to the impact on living costs and rents.
- Overleveraging by investors, particularly at a time when interest rates are at historical lows, presents a significant risk to the property market. Removing negative gearing on large segments of the housing market could exacerbate or exaggerate the impacts of projected increases in interest rates over the next few years.
- The CGT discount on property assets was originally conceived to account for the price increase in property assets as a result of price inflation. At the time it was assumed that inflation would average 3 per cent per year. There may be room to review the CGT discount rate on a revised outlook for inflation in the economy over the next decade.

8.36 Therefore, Master Builders is open to a review of reforms to negative gearing which aim to reduce overleverage and increase stability in the housing sector.

8.37 Master Builders also supports a review of the CGT discount. The Henry Tax review (2010) rightly argued that given the Reserve Bank target for inflation of between 2 and 3 per cent, coupled with a number of years of low inflation that a 50 per cent discount may be too generous and should be reduced to 40 per cent.

8.38

The Henry Tax review (2010) also noted: (page 418):

- *changing the taxation of investment properties could have an adverse impact in the short to medium term on the housing market; and,*
- *changes to the tax treatment of investment property should only be adopted following reforms to the supply of housing (for example, land release policies).*

8.39 And followed by noting (at page 420):

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

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

Master Builders supports the Henry review recommendation to review the rate of the CGT discount. But only after reforms to the supply of housing have been implemented.

## **Stamp duties and land taxes**

- 8.41 A direct swap of stamp duties for land taxes is not a solution to the high tax rates levied on the building and construction industry. In this instance, Master Builders disagrees with the recommendations of the recent *Productivity Commission: 5 Yearly Productivity Review*. Whilst agreeing that land tax is a more efficient tax than stamp duties, Master Builders believes that there are better avenues for reform than simply swapping one tax on property for another.
- 8.42 Additionally, there are issues of fairness and equity which are not considered in the recommendations of the recent PC report. Including:
- The shift of the effective tax burden from those who invest and profit from the property sector (predominantly property developers through transaction taxes) onto homeowners (through higher land taxes), and
  - The double taxation of some home owners during the transition who pay stamp duties and then higher land taxes over time.
- 8.43 The approach taken by the ACT Government to swap stamp duties for land taxes (and rates) provides a case study as to how this transition may take place.
- 8.44 Evidence shows that this reform has increased the tax liability (and therefore the distortion) on the property sector and has also proven not to produce the efficiency gains in terms of fewer vacant bedrooms in the current housing stock.
- 8.45 Additionally, the ACT Government Budget clearly shows revenue generated from stamp duties has increased at the same time as revenue from land taxes and will continue to do so in the four year, 2017 Budget forward estimates. This is despite the reform being implemented five years ago. A summary of revenue raised is provided below:

- Stamp duty revenue for residential and commercial property increased by around \$40 million, from 2011-12 to 2016-17, despite five years of reform aimed at phasing out stamp duty on property.
- During the same period the combination of land taxes and rates have increased by 71%, from \$307 million in 2010-11 to \$554 million in 2016-17.
- As a result the combination of stamp duties, land taxes and rates as a share of total tax revenue has increased from 48% to over 51% - over half of all generated tax revenue in the ACT comes from the property sector.

8.46 In the last four years, rates and land taxes on a rented residential property with an unimproved land value of \$500,000, have increased by more than 20%, from \$8,300 to over \$10,000 per year.

8.47 On a comparatively priced commercial building land rates have increased by around 120% from approximately \$14,820 in 2012-13 to \$32,475 in 2017-18. As a result commercial vacancy rates in the ACT are at 16% - the highest on record. There is a consensus amongst commercial property owners in the ACT that these rate rises are unsustainable.

8.48 Stamp duty and land tax revenue are both projected to increase in each year of the 2017 ACT Budget forward estimates. Between 2017-18 and 2020-21 stamp duty revenue is projected to increase by 12%, from \$194 million to \$217 million, while land taxes are estimated to increase by 38%, from \$110 million in 2016-17 to \$152 million in 2020-21.

8.49 The policy is creating distortions in the market, with a number of large residential developments emerging outside the ACT border which are not subject to these tax increases, including the fast growing areas – Googong, Royalla and Queanbeyan.

8.50 A more equitable method would be to stop stamp duties immediately and only apply the higher land taxes and rates to those properties which have not paid stamp duties. This would prevent double taxation and be more equitable for new home owners. This is not Master Builders recommendation, but would be a more equitable method of reform.



- 8.51 Reforms to property taxation must be considered as part of a wider reform agenda which extends across all levels of government. Given land is a factor of production, like capital and labour, a more effective reform must consider the relationship between taxes on these factors of production – not simply an exchange of one property tax for another.
- 8.52 Given that labour and capital are mobile and land is not, there is merit in exploring reforms to land taxes in the wider context. Doing so could increase efficiency in the tax system – effectively raising revenue without raising the total tax rate.
- 8.53 Land taxes do not reduce the quantity of land, and they more effectively capture the benefits accrued to land owners from tax payer funded infrastructure investment and cities development. Taxing windfall gains is more equitable than taxing individual effort.
- 8.54 Master Builders recommends that stamp duties and land tax form part of a review of all taxes on the factors of production and whether this mix is still appropriate given changes to the mobility of capital and labour in the global economy over the past two decades.

### **Goods and Services Tax**

- 8.55 To remove taxes that are unfair or constitute ‘double taxation’. For example, GST imposed on stamp duty is unacceptable. It is a tax on a tax. Future tax reforms must also be considered in the same way and should not be implemented if there is a possibility of ‘double taxation’.
- 8.56 Master Builders recommends a review be undertaken to examine the costs and benefits of increasing the level and broadening the scope of the GST.

### **Planning and Zoning**

- 8.57 One area that should be subject to immediate reform is the land release policies for residential land of state/territory and local Governments. Inefficient land release policies have seen land price rise by a rate more than three times faster than construction costs in the last three decades – making perhaps the greatest contribution to high house price growth over this period. Even small policy improvements in this area could yield large benefits to the economy.

- 8.58 Research commissioned by Master Builders has shown that improvements in planning and zoning in our major cities could put downward pressure on house prices and add significantly to the supply of new housing in the next five years. The research and details around the modelling framework can be found in the Appendix of this submission.
- 8.59 Given planning and zoning are the jurisdiction of State and local Governments, Master Builders recommends the Federal Government play a role through the implementation of incentive (or competition) payments. These could be administered through new funding arrangements such as the National Housing Infrastructure Facility (NHIF), whereby for example, funding may be subject to specific performance targets.
- 8.60 Recommendations around the type of indicators which could be used to measure local government performance in terms of planning and zoning reform can be found above relating directly to the National Housing Infrastructure Facility (NHIF) program.
- 8.61 In addition, it is Master Builders recommendation that policy reform follows the recommendations of the Harper Review (2015). Specifically:
- Recommendation 8 - that restrictive land policies by state/territory and local Governments are not in the public interest and would likely fail any public interest tests. It is recommended that all land planning and zoning policies be subject to Recommendation 8 of the Harper Review.
  - Recommendation 9 – *“State and territory Governments should subject restrictions on competition in planning and zoning rules to the public interest test, such that the rules should not restrict competition unless it can be demonstrated that the benefits of the restriction to the community as a whole outweigh the costs, and the objectives of the rules can only be achieved by restricting competition.”*

## 9 Building Regulations

### Non-conforming and non-compliant products

- 9.1 Master Builders has long supported a nationally consistent NCC and associated regulatory systems. Notwithstanding this position, several recent high profile events involving non-conforming and non-compliant ('NCPs') building products demonstrates that there is more work to be done to ensure the NCC is robust and appropriately enforced.
- 9.2 In response to concerns around NCPs Master Builders has recommended a number of improvements to strengthen compliance and enforcement that are listed below but notes these must be put in place in way that makes the system easier to use and has the least cost to industry while ensuring the quality, safety and integrity of Australia's built environment.
- 9.3 Master Builders recommends appropriate resourcing is made available to the Department of Industry to ensure this is done effectively and to support pilot programs that enable the development of better systems that can align the existing suite of third party product certification schemes, ensure they are operating to a minimum standard and provide consistent information from a common portal.
- 9.4 Master builders supports the following reforms in relation to NCPs:
- The NCC must be clearer in establishing ways to verify and test building products, particularly as they relate to external walls. Recent out-of-cycle amendments to the NCC are a step towards fulfilling this goal.
  - The NCC must be enforced and policed in a way that is nationally consistent. The focus must be on ensuring the NCC is effective and building industry participants are clear as to its compliance requirements.
  - The level of accountability must be better shared amongst all those involved in the building and product supply chain, so as to maximise NCC effectiveness and reduce incidence of non-compliance.

- Building products should be subject to certification and registration through a centralised product certification and registration system to make it easier for industry compliance.
- Where the NCC (or any other instrument, Code or similar) requires reference to an Australian Standard ('AS') these should be freely and easily available.

## Energy Efficiency

- 9.5 Master Builders acknowledges the Australian Government is committed to addressing climate change while at the same time ensuring Australia maintains its energy security and affordability and the competitiveness of our industries and as part of this the Government is continuing to develop the roll out of the National Energy Productivity Plan (NEPP) designed to boost energy efficiency by 40 per cent by 2030.
- 9.6 The NEPP proposes improvements to commercial and residential building energy efficiency before 2020 and implementation of this agenda is currently underway.
- 9.7 Master Builders notes minimum energy performance standards are set out in the National Construction Code for new buildings and major renovations and that Commonwealth, state and territory governments agreed standards should be raised for commercial buildings in 2019.
- 9.8 Master Builders recommends that any changes to energy stringency undergo a thorough Regulatory Impact Statement and targeted consultation with industry. A one size fits all approach is difficult to achieve in Australia with the range of climate variations across the country and there will be a cost to the building industry and consumers from any stringency changes. Master Builders welcomes the opportunity to engage further in the development of policy reform.
- 9.9 Master Builders has consistently advocated for no increase to the existing Green Star rating for residential buildings and notes that changes to building stringency should not be the sole focus for delivering energy efficiency targets in the built environment.

- 9.10 Master Builders notes government is considering reform in other work areas including developing rating and disclosure schemes to improve existing buildings, and investigating trajectory and whole of house approaches to ensure residential buildings are built and improved to need less energy for heating and cooling and welcomes the opportunity to engage further.
- 9.11 We also note the Australian Government's Smart Cities Plan will contribute to the NEPP through measures to address climate change at the local level, such as the \$100 million a year Sustainable Cities Investment Fund and that there are also opportunities to drive the deployment of clean energy, renewable energy and energy efficiency technology in cities through City Deals. Master Builders considers if further stringency changes come into effect, programs to offset the cost to transitioning the reforms will need to be expanded.

### **Standards Australia (SA) – Department of Industry**

- 9.12 Master Builders Australia believes that the Commonwealth should revise the nature of its Memorandum of Understanding (MOU) with Standards Australia (SA) and in doing so should seek the views of relevant industry stakeholders.
- 9.13 The role that SA play and the documents they generate are becoming increasingly referenced by Parliaments of all jurisdictions and are particularly relevant to matters of public importance, such as the use and reference to standards in other instruments (such as Modern Awards or the National Construction Code).
- 9.14 In the overwhelming majority of cases, a person seeking access to a particular standard cannot obtain same without incurring significant financial cost. Master Builders believes this is inappropriate given the need to access and understand the requirements of a standard is frequently (if not entirely) established with reference to statute, code or other legislative/administrative requirement.
- 9.15 Master Builders believes that where reference to a standard is required by any type of administrative instrument, guideline or Code, it must be freely and publicly available at no cost.
- 9.16 Further, Master Builders believes that any MOU the Commonwealth has with SA is limited to the traditional role performed by SA and does not allow for the development of standards that are unconventional or outside of the intended core purpose of such a 'entity'. For example, Master Builders understands that

significant SA resources have been deployed developing particular standards that:

- relate to the commercial relationships between contracting entities;
- relate to the adoption of international standards that have little or not utility in the Australian context;
- attempt to put frameworks around matters that ought rightfully be the domain of Parliaments or the common law, such as internal governance of certain organisational types, employment conditions;
- allow for developers of standards, and those on its committees, to benefit from any financial or commercial advantage derived from the development and operation of those standards;
- relate to the requirements of training and educational qualifications; and
- relate to matters that the public would not necessarily believe warrant a standard, such as protocols for the post-service testing of automatic beverage dispensing machines.

9.17 As the reliance upon SA and the documents it produces is rapidly increasing, it is crucial that the Commonwealth ensure that any arrangement it has with SA and the subsequent standing such arrangement brings in terms of recognising SA, is carefully reviewed and understood by relevant decision makers.

## 10 Small Business

- 10.1 Small businesses are the foundation of our economy but they are often subject to unfair tax and regulatory frameworks which impede growth and competition.
- 10.2 Regulatory reforms which reduce red and green tape and reduce the costs of compliance benefit small businesses more than larger businesses due to scaling and resourcing advantages of large firms. Compliance costs can become a significant barrier to entry and reduce competition in the building and construction industry.
- 10.3 Master Builders welcomes the Government's intention to reduce the regulatory burden through an aggressive agenda to cut \$1 billion in red and green tape, and would encourage the Government to focus on removing regulations which have the greatest impact on small businesses.
- 10.4 Any new regulation must be tested rigorously against a standard cost-benefit analysis, endorsed by the Productivity Commission and made available for public scrutiny as recommended in the PC report – Regulator Engagement with Small Business. If the regulation fails these tests then it should not be implemented.
- 10.5 As a highly capital intensive industry made up of more than 350,000 small and medium sized businesses, the extension of the accelerated depreciation program was a big win for building and construction businesses from the previous Budget (2017). Master Builders recommends that these measures be extended for at least one more year.

### **Business simplification**

- 10.6 Master Builders supports the Governments Business Simplification Agenda and would support additional funding into the program - such as that slated in the recent Mid-Year Economic and Fiscal Outlook (MYEFO), as a result of the discontinuation of the National Competition Council - to undertake research into the performance of local Governments and Government agencies and programs.

- 10.7 Master Builders recommends that the Business Simplification Agenda focus on simplification of regulatory requirements and compliance frameworks for small business as a priority.

### **Government Procurement**

- 10.8 Master Builders supports a recommendation to review Government procurement policies and policies pertaining to other commercial arrangement with the private sector, including procurement policies, commissioning, private-public partnerships and privatisation guidelines. Procurement and privatisation policies and practices should not restrict competition unless:

- the benefits of the restrictions to the community as a whole outweigh the costs; and
- the objectives of the policy can only be achieved by restricting competition.

- 10.9 An independent body, such as the Australian Council for Competition Policy, should be tasked with reporting on progress in reviewing Government commercial policies and ensuring privatisation and other commercial processes incorporate competition principles.

- 10.10 The substance of Recommendation 18 of the Harper Review (2015) is endorsed.

- 10.11 Master Builders further recommends that Government Procurement rules be reviewed to better allow small and medium sized businesses to bid for government tenders in the building and construction industry. This could be achieved in several ways, including:

- By splitting tenders into small projects rather than tendering the total project and then allowing the head contractor to sub-contract the various elements of the project, and

Small and medium sized business content clauses which mandate a certain share of the project budget to small and medium sized businesses – this could also require greater local content.



## 11 Tax Reform

- 11.1 Australia's tax system is not producing the same amount of revenue for the same amount of tax as it used to. Conversely, the community is seeking increased services from government. The increasing ease with which capital (and labour) can cross borders means the tax system must also be internationally competitive – this is particularly true for withholding taxes. The answer does not lie in more taxation.
- 11.2 Treasury estimates tax compliance costs add up to \$40 billion per year – this is a big drain on the resources of private businesses. Tax reforms should, as a first priority, seek to reduce these costs. The Government should aim to reduce compliance costs by half, or more.
- 11.3 Private business investment is now lower than any time since 1992. This is perhaps the biggest challenge to economic growth and prosperity and a key reason why wages have not grown for the past four years or so.
- 11.4 Master Builders recommends that the reduction in the company tax rate, proposed in the 2017 Federal Budget be implemented immediately and in full. This includes a reduction in the tax rate for large companies.
- 11.5 There is no justifiable reason for taxing companies of different sizes differently. It provides a significant distortion and may encourage adverse behaviour and reduce private investment.
- 11.6 Master Builders also recommends that the timeline for changes in the company tax rate be accelerated if the Budget position supports it. The sooner the company tax rate is lower the sooner Australia will get its fair share of international (and domestic) capital investment.
- 11.7 For the property sector specifically, Master Builders recommends the Treasury undertake a review of the cumulative impost of taxes levied on property and land. Combined, the property and construction industries contribute a greater share to the tax take than to GDP. This is an unfair tax impost on the industry which pushes up the price of houses, schools and hospitals.
- 11.8 Master Builders' detailed tax reform priorities are expressed in a number of detailed submissions to the Government including as part of our *Strong Building*

*Strong Economy* 2016 pre-election campaign, as well as in response to calls for input into the Submission to the Treasury's Affordable Housing Working Group (2016), the "Re: Think: Tax Discussion Paper" (2015), and previously in response to the finding of the Henry Tax Review (2010)<sup>2</sup>. Our tax reform priorities remain largely unchanged given the lack of implemented policy changes to come out of the Government's White Paper and subsequent discussion papers.

11.9 In sum, Master Builders recommends:

- Given that three taxes – GST, income tax and company taxes – raise around 80% of tax revenue, these taxes must be central to any serious reform process.
- Reform should consider the optimal mix between taxes on income and taxes on expenditure, noting specifically the behavioural impact on specific taxes due to the increased ease of labour and capital mobility
- At the state level, Master Builders does not support the substitution of stamp duties for land taxes. Our justification is twofold:
  - It has proved problematic in the jurisdictions which have tested this reform and does not act to reduce the tax liability on the property sector.
  - Swapping one property tax for another is not serious tax reform, does not reduce the unfair tax burden on the property sector, or the distortions which this can create.
  - It shifts the tax burden off those who profit from the sector (predominantly property developers and investors) onto homeowners. It has also not produced the efficiency gains in terms of fewer vacant bedrooms in the current housing stock in jurisdictions which are undertaking this change.
- Reforms to property taxation must be considered as part of a wider reform agenda which extends across all levels of government. Given land is a factor of production, like capital and labour, a more effective reform must consider the

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<sup>2</sup> Previous submission which outline Master Builder broader tax reform priorities can be found as attachments to this submission.

relationship between taxes on these factors of production – not simply an exchange of one property tax for another.

- Given that labour and capital are mobile and land is not, there is merit in exploring reforms to land taxes in the wider context. Doing so could increase efficiency in the tax system – effectively raising revenue without raising the total tax rate.
- Land taxes do not reduce the quantity of land, and they more effectively capture the benefits accrued to land owners from tax payer funded infrastructure investment and cities development. Taxing windfall gains is more equitable than taxing individual effort.
- To reduce the difference between the highest income tax bracket and the company tax rate – this is a distortion which encourages tax avoidance behaviours. Reducing the highest income tax bracket may also encourage greater compliance and may increase overall tax revenue over time.
- To remove taxes that are unfair or constitute ‘double taxation’. For example, GST imposed on stamp duty is unacceptable. It is a tax on a tax. Future tax reforms must also be considered in the same way and should not be implemented if there is a possibility of ‘double taxation’.
- Any changes to tax concessions that incentivise savings should be considered very carefully, particularly in the housing market.
- A review of the potential for the GST to be broader based. This could be achieved by independent external reviews. The clear benefit will be the increase in revenue to assist in the rebalancing the structural Budget deficits across State/Territory and Commonwealth Governments and would be in line with Recommendation 51 under section C2 of the Henry Tax Review (2009).
- Master Builders Australia recommends that the cumulative influence of GST be removed. In particular, GST imposed on stamp duty is unacceptable. It is a tax on tax. If stamp duty must be charged then it should be calculated on the GST excluded price.

## 12 Workplace programs/agencies

- 12.1 Master Builders Australia seeks a workplace relations framework that is balanced, simple and fair. The framework should focus on, and give priority to, the wishes of the most important components of any workplace, being the employer and their employees. More broadly, it should also facilitate and encourage job creation, provide certainty for building industry participants, create stability to encourage industry investors, and ensure that rights and obligations are evenly balanced.
- 12.2 The building and construction industry employs approximately 1.1 million Australians, which represents around 9 per cent of total employment, or approximately 1 in 10 employed workers. The Department of employment project that the industry will grow by approximately 120,000 people over the next five years.
- 12.3 There are over 300,000 business entities that are part of the building and construction industry. Of these, around 98 percent are considered small business entities. The sector is now the second largest in the Australian economy.
- 12.4 It is within this context that workplace relations law and the settings that underpin it are of significant importance to Master Builders' members and the building and construction industry more generally. Given the large cohort of workers within the sector, changes to settings and agency operations will be likely to affect the building and construction industry in a significant way. This can take the form of impacting the capacity of the sector to both meet its predicted workforce demands as well as delivering infrastructure for the community in a manner that ensures value for taxpayers' money.
- 12.5 It is through the above prism that Master Builders views existing agency appropriations and through which the below commentary regarding individual agencies are made.
- 12.6 Summary of recommendations:

- The recurrent funding for the ABCC be increased by not less than \$20m over the forward estimates period;
- The general role and function of SWA be reviewed and critically considered before any alterations to Government appropriations are considered;
- The return to participating employers of information provided to WGEA be increased so as to better educate the business community as to its purpose and value;
- The Government return to its previously held position with respect to the FEG providing assistance and relief to a level not greater than the NES in order to avoid gaming and/or the creation of a morale hazard;
- The increased role and functions proposed for, or already affecting, the OFSC and ROC be carefully assessed in terms of resource impact and increases be appropriated to ensure core functions remain capable of being discharged;
- A fund of at least \$60 million be established by the FWO to provide relief to employers and apprentices in Queensland who may be adversely affected by court findings relating to the operation of the OBO and modern awards; and
- The Government review the role of the Member Assist function within the FWC and, if necessary, boost the number of appointed Commission members to ensure that appropriate and experienced scrutiny is given to functions such as the approval of enterprise agreements.

### **Australian Building and Construction Commission (ABCC)**

- 12.7 Master Builders recommends that the appropriation for the ABCC be increased by not less than \$5m per year (or \$20m over the forward estimates period) so as to ensure it can carry out the core functions for which it was originally intended as well as the additional functions conferred upon it arising from alterations to the *Building and Construction Industry (Improving Productivity) Act 2016* (Cth) ('BCI Act') and the *Code for the Tendering and Performance of Building Work 2016* ('2016 Code').
- 12.8 Master Builders welcomed the re-establishment of the ABCC in late 2016 as a specific industrial relations regulator for the building and construction industry.

The ABCC worked when it previously existed and the sector remains confident that it will do so again, with signs already appearing that it is making a positive impact. Combined with the establishment of a Registered Organisations Commission (ROC), Master Builders envisages a marked improvement in sector workplace relations and the conduct of associated representative organisations.

- 12.9 The ABCC is likely to deliver significant benefits not only to the Australian building and construction sector but the community as a whole. Master Builders had estimated that the absence of the ABCC meant that the cost of construction in Australia was 30% higher than it ought to have been. Given the restoration of the ABCC and the estimated infrastructure spend of State and Commonwealth Governments combined forecasts for the next 10 years, the ABCC should generate a significant saving to Governments of all levels and to the benefit of the community generally.
- 12.10 While a re-established ABCC is a positive development, Master Builders remains concerned about the effect of, and implications arising from, a number of legislative amendments that changed the law from that as it was initially proposed. There are both policy and agency consequences arising from these changes detailed hereunder.
- 12.11 The ABCC now has an expanded remit and role to play in areas that are not conventionally associated with industrial relations law, do not pertain to the relationship between employers and employees, or were previously the responsibility of other regulators, agencies or jurisdictions.
- 12.12 These additional roles include:
- taking on the role previously held by the Fair Work Ombudsman (FWO) in relation to building and construction industry workplaces;
  - ensuring compliance with, the monitoring of, security of payment laws that apply to building and construction industry participants;
  - dealing with matters relating to commercial contracting and related commercial conduct within the building and construction sector;
  - housing a Security of Payment Working Group (in which Master Builders is formally engaged);

- greater regard to matters involving the Australian Competition Law;
  - taking a more active role in terms of sector work health and safety; and
  - consideration of matters with regard to the engagement, by code covered entities, of non-citizens or non-residents.
- 12.13 There is significant concern that the focus of, and resources available to, the ABCC will be less concerned with its primary role and function and instead diverted towards matters that are ancillary or secondary to its original core role.
- 12.14 It is Master Builders' strong and primary view that the additional elements for which the ABCC was given responsibility should be reversed. This means that these additional responsibilities returned to the regulators who have historically and properly held the requisite responsibility.
- 12.15 For example, ensuring entitlement compliance for employee entitlements in the building and construction sector would be returned to the FWO, an agency that is responsible for this function in every other sector of the economy. There is no reason why the FWO could not easily resume this role and it is simply confusing and inefficient (to the industry, workers and other regulators) for this exception to exist.
- 12.16 Further, given its size, background, experience and history, is far more efficient and effective on a recovery per input basis than any other regulator and certainly more efficient than the ABCC.
- 12.17 Standards of commercial conduct in the building and construction sector is something over which the Commonwealth has little or no jurisdiction. Laws dealing with payments between industry participants are the responsibility of State and Territory Governments. It is not appropriate for a Commonwealth agency such as the ABCC to involve itself in laws that are determined by other jurisdictions.
- 12.18 Master Builders believe that the regulator of commercial laws applicable to the sector should be those that already exist and the states and territories are responsible for enforcing their own laws. The ABCC should have little or no role to play, other than a broad monitoring role where repeated breaches can be identified and notification made to the relevant state or territory regulator.

- 12.19 In the absence of those roles being returned to the agency where they should properly be located, it is incumbent upon the Commonwealth to ensure that the ABCC is appropriately funded and resourced. This will ensure the ABCC can maintain their core role of ensuring compliance with special industrial laws specific to the building and construction sector and participants, as well having capacity and resources to appropriately undertake the new responsibilities that they have been given.
- 12.20 To this end, it is Master Builders' view that the agency should have a recurrent funding increase of not less than \$5m per year or \$20m over the forward estimates period. The offset for this additional allocation should come from the regulators with whom responsibility previously sat, such as the FWO, or from state and territory regulators whose workload ought to be commensurately reduced given the new ABCC role.

### **Safe Work Australia (SWA)**

- 12.21 Master Builders notes that SWA underwent a substantial review and that changes implementing the recommendations arising therefrom have been implemented both internally and via legislative alteration. Notwithstanding this, Master Builders takes the view that it is appropriate for the Government to consider an additional SWA review that is narrow in terms to include the following matters:
- Duplication and overlap with other existing agencies and their work, particularly with regard to policy setting functions;
  - The view of regulators such as Work Safe NSW, Work Safe ACT, etc in relation to SWA and its role, function and purpose;
  - The processes undertaken within SWA to develop materials and policy positions;
  - The nature of data produced by SWA, including statistical materials published regarding industry injury and fatality rates; and
  - Whether or not there is scope for other agencies (for example OFSC and or the Asbestos Safety Eradication Agency) to also be part of the SWA entity.



- 12.22 Master Builders would seek that the Government also amended relevant regulations as necessary to grant Master Builders a position on the SWA Board. The existing members are limited to the Australian Industry Group (AiG), the Australian Chamber of Commerce and Industry (ACCI) and two equivalent union positions. The Government should consider whether or not this appropriately reflects and serves the Government's policy goals of ensuring workplaces are safe and hazards are minimised.
- 12.23 The membership of the SWA Board should extend to the top three industry sectors that are considered 'priority industries'. SWA has categorised certain industries in this manner that are involved in work or sectors that are deemed to be at a level of risk that exceeds the average. Given the building and construction industry employs around one in ten people and is the second largest industry in the Australian economy, Master Builders Australia should have a position on the SWA Board whilst it remains a priority industry along with representatives from other priority industries.
- 12.24 In the alternative, the Government should consider re-establishing the Technical Advisory Group (TAG) that has previously existed in SWA and other predecessor bodies. The TAG was a way in which SWA and policy makers could interact with industry representatives on a more detailed basis without necessarily making any change to the structure or make up of the SWA Board.

### **Workplace Gender Equality Agency (WGEA)**

- 12.25 Master Builders supports the policy outcomes pursued by WGEA. However its, scope exists to:
- improve the reporting obligation to ensure the associated regulatory burden is minimised as far as practicable; and
  - ensure that businesses who comply with reporting obligations are provided with better and more useful information about the results of the data collection process.
- 12.26 Regrettably, some employers hold the view that there is little useful or practical information outcomes made available to them once the reporting process has completed. We would encourage the Government to ensure that information, reports, publications or any other like outcomes of WGEA data analysis is

published in such a way as to better assist employers both generally and in a more practical sense.

- 12.27 In addition, the WGEA website has a number of links to existing research publications and analysis, however much of this is from non-domestic sources such as Europe or the United States. The quantity of Australian based research is less extensive and on topics which may not necessarily be as relevant as they could be. The Government should consider reviewing the WGEA research processes to evaluate the extent of scope for greater industry and employer input into future activity.

### **Fair Entitlement Guarantee (FEG)**

- 12.28 Master Builders notes that while the Government is considering changes to ensure that FEG is not exploited, it has decided to not proceed with a previously announced initiative to align payments available under the FEG to those set by the National Employment Standards (NES). Master Builders seeks that the Government reverse this position and return to its former policy position.
- 12.29 The existing operation of FEG is problematic in that entitlements set by an enterprise agreement will be covered by FEG notwithstanding that they are significantly larger than those required by the NES. The moral hazards associated with such a practice are trite.
- 12.30 The Government should be cognisant of the signal such a scheme sends to taxpayers when they become responsible to cover the cost of over-minimum entitlements agreed without Government scrutiny at the workplace level. Such an arrangement also operates to the detriment of small business that are frequently without such arrangements or cannot agree to them due to potential cost. This makes such small business workplaces less attractive to potential employees and distorts the availability of labour.
- 12.31 Master Builders supported all other announcements to increase recovery efforts to increase the FEG scheme efficiency.

### **Asbestos Safety and Eradication Agency (ASEA)**

- 12.32 Master Builders is a member of the building, construction and demolition sector committee of ASEA. Master Builders supports the work of the agency and the *National Strategic Plan for Asbestos Management and Awareness 2014-18* and

recognises the importance of the safe removal and remediation of asbestos where appropriate.

- 12.33 The Agency should continue to maintain a practical focus with an emphasis on education and providing advice to DIY home renovators, a group that are becoming increasingly at risk of asbestos-related diseases.

#### **The Office of the Federal Safety Commissioner (OFSC)**

- 12.34 The scheme under which the OFSC exists has grown considerably both in terms of the number of companies accredited and the number (and value) of projects within the purview of the scheme.
- 12.35 The Government should continue to ensure that the red-tape burden associated with accreditation remains constantly scrutinised and opportunities to reduce said burden are adopted wherever they exist. This is particularly relevant for those building and construction industry participants that are small or medium sized.
- 12.36 In addition, the Government should review the additional responsibilities and functions added to the role of the OFSC through alterations to the BCI Act and the 2016 Code. These new functions include monitoring the use of building products and the extent of compliance with the provisions of the National Construction Code.
- 12.37 There is a significant risk that these new functions will require a large amount of resources to ensure OFSC personnel are familiar with and capable of handling their new function. This poses a very real risk of detracting from the core function for which the Office was established, that being, to work with industry to achieve the highest possible work health and safety standards on building and construction sites under the OFSC's scheme.

#### **Registered Organisations Commission (ROC)**

- 12.38 Master Builders welcomed the passage of laws that created the ROC. Given the extensive history of malfeasance amongst building industry unions, the ROC is expected to have a significantly positive impact on the conduct of employee associations in the sector which will be to the benefit of workers and union members.

12.39 While its passage through Parliament was a positive development, Master Builders remains concerned about the effect of, and implications arising from, a number of legislative amendments that changed the law from that as it was initially proposed. Master Builders would support any move by the Government to amend the legislation to reflect its original form.

**12.40** Master Builders notes that, at the time of writing, there is legislation before the Parliament that has the capacity to increase the workload of the ROC and its related functions. In the event these changes successfully pass the Parliament, the Government ought to consider an increased appropriation commensurate with these changed roles.

**Comcare, the Safety, Rehabilitation and Compensation Commission, and the Seafarers Safety, Rehabilitation and Compensation Authority.**

12.41 Master Builders would recommend that the Government consider combining these entities to deliver departmental and administrative savings and efficiencies.

**Fair Work Commission**

12.42 Master Builders notes that there are several legislative changes that have the capacity to affect the workload of the Fair Work Commission.

12.43 Primarily, we note that the *4 Yearly Review of Modern Awards* processes is due to end and this will likely reduce the workload of both the Commission itself as well as the multitude of parties involved in those reviews.

12.44 Master Builders itself is actively engaged in, or closely monitoring, approximately ten separately constituted Full Bench proceedings related to, or arising from, the 4 Yearly Review process. This is a significant strain on Master Builders internal resources this is likely to be more acute for those organisations with lesser financial reserves.

12.45 Master Builders also notes a marked increase in the role and activity of the Member Assist function within the Commission. This function assists members of the Commission in their functions to receive, assess and consider the approval of enterprise agreements negotiated pursuant to the *Fair Work Act 2009* (Cth).

- 12.46 Master Builders feedback from our State and Territory members regarding their experiences with the Member Assist function is somewhat mixed. This feedback includes concerns that the function appears to:
- sometimes, but not always, operate at arm's length from actual FWC members;
  - determines the role and capacity of third parties to intervene in approval applications;
  - set deadlines that appear arbitrary and unilaterally varies those deadlines; and
  - provides information to third parties in circumstances where it may be inappropriate to do so.
- 12.47 It is Master Builders' recommendation that Government take steps to ensure that the Member Assist function has a clear and distinguishable role and the nature of this is known to the industrial parties whom regularly file agreements for approval on behalf of members.
- 12.48 Further, Master Builders recommends that the Government take steps to prevent the Commission publishing a list of agreements filed for approval (but not yet approved) on its "Agreements in Progress" page. It is Master Builders' experience that the publication of agreements on this page does not serve any useful purpose nor is it necessary pursuant to any provision within the Fair Work Act 2009.
- 12.49 To the contrary, Master Builders takes the firm view that the content of this page is exploited by other industrial organisations for purposes that are inappropriate and/or to exert inappropriate industrial pressure on employers and employees. This frequently occurs in circumstances where an agreement is published/listed as awaiting approval and is either made without the involvement of a registered organisation of employees and/or is in terms that are inconsistent with the standard or 'pattern' agreements that are promoted and sought by some registered organisations of employees.
- 12.50 Further, Master Builders notes that the information available to the Commission as required by Forms F16/F17 should not be provided to external third parties without first notifying the persons named within those forms, giving them a reasonable opportunity to object to the release of that information, and only

allowing that information to be released with the express written permission of the persons so affected.

### **Fair Work Ombudsman (FWO)**

- 12.51 Master Builders notes the valuable role played by the FWO in educating workplaces about their rights and obligations pursuant to the Fair Work regime and taking steps to prosecute those who do the wrong thing or who systematically break the law.
- 12.52 While Master Builders is in a better position than most to understand and appreciate the complexities associated with the nuances of Modern Awards and providing advice and information relevant to a comprehensive legislative workplace regime, it is noted that FWO often adopt a view or approach that is sometimes too 'black and white' and which fails to apprehend the full detail of a particular issue or problem. This has the capacity to create adverse outcomes for workplaces who might not otherwise experience those outcomes.
- 12.53 An example of this relates to the approach of the FWO in dealing with a specific industry matter applicable to the employment conditions payable to apprentices in Queensland arising from a FWC decision interpreting the operative effect of the OBO. The FWO's approach in advising employers of a position that (a) was under appeal, (b) could be potentially unnecessary and (c) was not consistent with the intention and historical view of both the relevant Parliaments and associated parties has created concern and confusion amongst both industry associations, apprentice bodies, parents and apprentices themselves as to the impact of this matter and their obligations/rights/entitlements. Regrettably, the approach and related FWO information has been inappropriately used by some industrial organisations for unrelated purposes.
- 12.54 Notwithstanding the above, Master Builders also recommends the Government establish a relief fund given that appeal proceedings relevant to the above matter failed to overturn the decision in question. This outcome will negatively impact the level of apprentice numbers in Queensland arising from the increased costs of employment that will follow. It has historically been the case that the QLD Department of Industrial Relations, along with the Fair Work Ombudsman, had been providing advice to employers and employees as to the effect of the OBO and its impact on rates of pay and allowances. The subsequent overturning of this advice by virtue of a court decision will mean

significant pack-payments for employers of affected apprentices and a significant jump in employment costs moving forward.

- 12.55 Master Builders believes that such an outcome would be unfair to employers and their employees who have relied, in good faith, upon the interpretation of both State and Federal regulators and their subsequent advice. In those circumstances, a relief fund to which employers could apply to assist in these financial consequences would ensure that affected employees receive the rates payable as determined by the Fair Work Commission without adversely affecting apprentice numbers which would be likely to stagnate or fall given the associated increased cost of employment.

#### **Office of the Small Business and Family Enterprise Ombudsman (ASBFEO) – Treasury**

- 12.56 Master Builders recognises the role and function of ASBFEO in acting as a policy voice for small business in Australia along with its other roles. The role of this office is important, given that there are more small businesses within the building and construction sector than any other part of the economy.
- 12.57 Notwithstanding this, Master Builders' interactions with the Office have been somewhat perplexing in terms of policy development and capacity to understand industry specific nuances.
- 12.58 One example of this was the inquiry the Office initiated into payment times for small business. The inquiry was established in an unconventional manner, in that it set up a series of survey questions and then invited those interested in the issue of payment times to complete the survey. The deficiencies in this approach are trite.
- 12.59 Master Builders, while not specifically called to do so, made a substantial written submission to the inquiry that highlighted the existing legislative regimes specific to the building and construction industry that have long existed and are administered by the State and Territory jurisdictions. The outcome of the inquiry did not appear to have had substantive regard to the submission and instead took the forms of a series of 'findings' that avoided the necessary and complex policy considerations in favour of an analysis of survey results.
- 12.60 Master Builders also questions the basis on which the Office is able to conduct inquiries and make recommendations about legislative matters over which the

Commonwealth has no jurisdictional coverage and about which the Office is not specifically charged with undertaking nor has the necessary level of expertise to deal with.

- 12.61 Master Builders recommends that the Government undertake a review of the Office and its functions to date with a view to ensuring it remains focussed on the responsibilities within its remit and charter and that relevant available resources are deployed accordingly.



## 13 Workforce Skills

- 13.1 Master Builders Australia seeks a vocational education and training system that meets the current and future needs of the building and construction industry delivering outcomes for employers, employees, the community and economy.
- 13.2 As one of the key growth sectors of the economy, the building and construction industry is the largest employer of skilled tradespeople in the Australian economy with approximately two thirds of the workforce employed in skilled roles. The Department of Employment projects that the industry will grow by approximately 120,000 people over the next five years.
- 13.3 In contrast to many other areas of the economy, one of the biggest risks to the projected future growth and contribution of the industry is a shortage of skilled labour. If projected workforce needs are not met, there will be significant consequences that will manifest themselves in various ways including:
- Increased construction costs to government, community and consumers;
  - Project completion delays, project over-runs and consequential costs in terms of productivity and disruption;
  - Potential delays or disruption to infrastructure development plans maintained by all levels of Government;
  - An adverse impact on the existing domestic workforce skill base with long term ramifications for dependent industries and trades, combined with greater examination of non-traditional options of supply to fill skills gaps; and
  - Ongoing adverse impacts on the domestic labour market more broadly, including employment levels.
- 13.4 The cost of these consequences will undoubtedly exceed that of an increased appropriation in the short term to pre-empt and address a shortage of skilled labour. Against this backdrop, the following commentary and associated

recommendations are made with respect to relevant portfolio agencies spanning both employment and education.

### **Pre-Apprenticeship Programme - background**

13.5 Master Builders is currently undertaking an apprenticeship pilot programme that explores new ways to get young people into VET and trades careers, and ensure those who commence stay and complete. While an examination of the outcomes of this pilot remains underway, key observations to date include:

- Pre-apprenticeship programmes increase completion rates: the selection of students to participate in the pre-apprenticeship programme is key to ensuring an increased completion rate. In one pilot programme, only one apprentice from a pool of 33 students failed to complete training. A non-completion rate of less than 1% should be contrasted against NCVET data which suggests approximately 60% of apprentices who commence in building and construction training fail to complete their course.
- Greater industry involvement ensures better outcomes: where industry is a driver of training in partnership with RTOs (both private and public) there is greater buy-in from employers and outcomes for students in terms of employment.
- Consistency is key to ensuring industry needs are met: there is greater need for development of national consistent teaching materials for RTOs delivering BCI training to ensure that key knowledge and skills are delivered to industry benchmarks.
- Pre-apprenticeship programmes must be a permanent and integral feature of the system: there is a strong need for ongoing funding for pre-apprenticeship programmes as they are proven to deliver stronger apprenticeship outcomes. Pre-apprenticeship programmes should run for a maximum of 4 weeks full-time or 10 weeks part-time to enable the acquisition of basic skills and knowledge as to not increase apprentices' wages due to competency based wage progression.

- Industry can help maintain system integrity: there is a strong need for greater industry collaboration with RTOs in ensuring some independence of RTOs in assessing students. At present, RTOs both train and assess and Master Builders is of the view there needs to be greater independence between these two to ensure improved training outcomes.
- Assess quality to improve student choice and outcomes: there are benefits in working with RTOs to introduce a “star-rating system” to provide consumers with information on quality RTO delivery.

13.6 While the above observations are made on a preliminary basis, Master Builders believes Government should have regard for them and related outcomes when finalised. This will assist Government in ensuring system investment will deliver tangible outcomes on the ground by understanding what works and what does not. The reviews and initiatives proposed below, particularly those that are sector specific, should also consider the pilot programme outcomes.

**Summary of recommendations:**

13.7 The budget should:

- Reaffirm the need for a VET regime that boosts skills and creates jobs;
- Acknowledge the contribution of the BCI to skills development and employment contribution both within and related to the sector, and the risks more broadly to the economy and labour market if projected shortages are not addressed;
- Focus on measures that facilitate greater jurisdictional consistency and an increased focus on quality;
- Set aside a significant appropriation for a targeted campaign to elevate the status of VET and a trade career in terms of community and educator perception;
- Determine that the BCI represents a special case in terms of future economic and skills growth potential, creating much scope to examine the need for an industry specific skills, training, related

support programmes, along with industry specific employment schemes, and set aside funding for this purpose;

- Announce the initiation a broader systemic review of VET to determine where reform is necessary, commencing with a targeted examination of blockages and delay in the current regime. The review should be conducted with the aim of ensuring industry is the key driver of VET initiatives and determining future skills needs; and
- Focus in initiatives that reduce the regulatory burden and VET compliance costs for training providers, employers and educators, and recognise the status of Industry RTOs as distinct from other 'non-public' providers.

### **Restoring system focus**

13.8 Master Builders believes the vocational education and training system should facilitate and encourage job creation, while providing certainty to participants, including students and employers. It is crucial that Government initiatives recognise this aim and do not undermine it.

13.9 This can be achieved through a broad systemic review of VET to determine where key reform is necessary. A major review could address how more young people can be attracted to work in the trades, how employers can be supported to take on more young people, and how the training system can deliver flexible and effective skills for the future. It should aim to ensure there are fewer different rules and regulations across jurisdictions, which creates uncertainty for both employers and employees.

13.10 This must commence with a targeted examination of blockages and delay in the current regime, and evaluate whether the goal of reforms in 2013-14 have been met. Other key areas of focus should include:

- Committees and groups that underpin the regime;
- The need to ensure industry remains the key driver in terms of programme evaluation and the determination of future skills needs;
- The drivers of participant uncertainty, including the overlap and inconsistency between jurisdictions, the impact of the different

approaches and attitudes taken by jurisdictions to funding VET, and the benefit of resolving the question of 'who is responsible for what';

- Quality in terms of training delivery and skills outcomes;
- Reducing compliance costs; and
- The need to recognise industry RTOs.

13.11 It is important that any review recommendations be developed with a view to being realistic and simple, and implemented in a way that provides stability, certainty and confidence for system participants.

### **Government must recognise role BCI plays in ensuring a skilled workforce**

13.12 Master Builders believes the BCI is a 'special case' in terms of future skill and economic contribution.

13.13 As such, Master Builders recommends that the Government set aside \$2 million to comprehensively examine the benefit of BCI specific training and regulatory arrangements, and related employment programmes.

13.14 This would allow a comprehensive and objective analysis of how BCI can better inform students as to future career paths and training options, ensure BCI related training investment delivers long term returns to the community, and explore ways to leverage industry to better link VET graduates with real job outcomes.

13.15 Group Training Organisations (GTOs), which have a significant role in construction apprenticeships owing to the project-based nature of construction work, have been particularly hard hit with decreases in employer subsidies and the introduction of competency based wage progression.

13.16 Master Builders therefore recommends a sector specific review examine the adequacy of support given to GTOs to undertake their very important role in developing apprentices for the construction industry and a corresponding review of the subsidies available to GTOs.

### **Boost profile of VET and trades careers**

- 13.17 For too long VET has been perceived as a poor cousin to tertiary education and this perception must be addressed urgently. There is a dire need to elevate trades to the centre of the economy and focus on ensuring Australian workers are highly skilled and job ready.
- 13.18 Master Builders estimates that completions of construction trades apprenticeships need to more than double over the current decade in order to meet employment demand for skilled tradespeople to build the homes, commercial projects and infrastructure that are in the pipeline.
- 13.19 This must occur with reference to sector specific initiatives, particularly BCI. There is significant benefit in considering sector specific investment to boost promotion of careers in the building and construction industry in Australian schools. There is wide misunderstanding amongst students, teachers and careers officers of the requirements and attributes that students should possess to be successful in the construction industry.
- 13.20 Master Builders recommends:
- that the Government sets aside \$5 million investment over the forward estimates for engaging school students, teachers and career advisers in a careers information initiative that is industry led and implemented. The initiative would directly engage students and teachers in their schools with information on jobs, pathways, employer expectations, VET qualifications, employment opportunities, GTOs and what to expect as an industry apprentice; and
  - the Commonwealth Government increase investment in post-secondary education, particularly skills training, commensurate with future needs of the building and construction industry. At a time when the proportion of skilled jobs is increasing, the number of State-funded training places has been static while Commonwealth investment in skills has been falling.

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- 13.21 In accordance with the above recommendations, Master Builders seeks that the associated \$5 million investment in careers be allocated to, and delivered through, AITSL.

### **Australian Skills Quality Authority**

- 13.22 Master Builders recommends that a portion of ASQA appropriations be quarantined for the sole purpose of examining ways to reduce existing regulatory burden and compliance costs.
- 13.23 The cost of maintaining compliance with regulation administered through ASQA is, on any objective basis, simply too high for many training providers. While Master Builders does not question the need for regulation and the policy outcome it seeks to achieve, the existing regime is frequently viewed as taking a 'lowest common denominator' approach where the wrong-doing and unacceptable conduct of a few result in administrative consequences for the majority, many of which are long-standing, established providers with a strong compliance history.
- 13.24 In addition, the regime seems unable to accommodate nuances or differences throughout the sector, particularly in relation to obligations in trainers in regional, small, or non-urban locations. Master Builders maintains that ASQA's role in enforcing compliance must not come at the cost of innovation and quality training delivery.
- 13.25 As a result of these problems, Master Builders in South Australia has closed its RTO. Other jurisdictions are re-evaluating the ongoing nature of their RTO in terms of compliance costs, with several likely to find their ongoing compliance costs too prohibitive.
- 13.26 While this is an unfortunate circumstance, it does highlight how otherwise reputable and long-standing RTOs simply cannot sustain the high compliance costs. This is particularly disappointing given these RTOs exist within one of the few economic sectors experiencing a period of comparative growth and facing an obvious need to not only maintain workplace skill levels, but increase them in the short term. Further, increased compliance costs divert resources away from other training activities at the expense of students and future skills more broadly.

- 13.27 One obvious and cost-neutral option to address this significant problem is for ASQA to embrace a category of RTO to be known as 'Industry RTO'; that is, an RTO which is not for profit and within a recognised and reputable industry association.
- 13.28 The adoption of this option would enable ASQA to recognise the history and reputation of industry related training providers and, where practicable, relieve the compliance burden applicable to them. Options would include, for example, compliance 'holidays' where a positive compliance history can be used to cost given the reduced risk of non-compliance.
- 13.29 The Government should also require ASQA to consult with industry in exploring how to reduce compliance costs. The Government should also reverse the 'consultation onus', requiring ASQA demonstrate and justify the rejection of any recommendations from industry rather than simply 'going through the motions' at the expense of options that are otherwise sensible and practicable.