

Master Builders Australia

Submission to the Senate Select Committee

on

Establishment of a National Integrity Commission

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1 Introduction

- 1.1 This submission is made on behalf of Master Builders Australia Ltd.
- 1.2 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 Australia's members are the Master Builder State and Territory Associations. Over 126 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.

2 Purpose of Submission

- 2.1 On 24 February 2016, the Senate resolved to establish a Select Committee relating to the establishment of a National Integrity Commission ('NIC'). The committee will inquire into the adequacy of the Australian Government's legislative, institutional and policy framework in addressing corruption and misconduct and whether a National Integrity Commission should be established.

3 Position of Master Builders

- 3.1 While Master Builders holds a view about the need for a NIC detailed below, our primary and most emphatic position is that a NIC and/or considerations of this Committee should not in any way:
 - 3.1.1 Hinder or delay future Parliamentary consideration of separate Bills to re-establish the Australian Building and Construction Commission ('ABCC');
 - 3.1.2 Represent a substitute for, or alternative to, the ABCC; or
 - 3.1.3 Create any confusion, or amplify confusion where it may already exist, between the actual role and purpose of the ABCC and the conduct that can be described as corrupt.
- 3.2 Master Builders further submits that the Committee should take an evidence based approach to its considerations. Specifically, a NIC should only be entertained where evidence of corruption or misconduct exists that is not

capable of being addressed by any existing body, agency or regime. This view is advanced noting that, at the Commonwealth level, a comprehensive framework currently exists to ensure the accountability of public officials and address corruption and misconduct more broadly.

4 Inquiry Background and context of this Submission

- 4.1 Master Builders notes the background to this inquiry is important in understanding the context within which this submission is made and the position we advance at 3.1 above.
- 4.2 In short, the question of an NIC (or related national anti-corruption body) appears to have arisen in debate following the release of the Final Report of the Royal Commission into Trade Union Governance and Corruption, moves to re-establish the ABCC and debate about the proposed Registered Organisations Commission (ROC). It has been variously suggested that a NIC or similar body should be established as an alternative to the ABCC.
- 4.3 While the question of corruption is important to address, caution must be taken to avoid misunderstanding the purpose and role of the ABCC. Suggestions that a NIC or similar body would obviate the need for the ABCC are misguided and based on assumptions that are, regrettably, incorrect.
- 4.4 The Committee should be very clear about the purpose of a re-established ABCC. If re-instated, the ABCC will be a regulator of industry specific industrial relations laws, with necessary powers to ensure compliance and enforcement. Greater compliance with, and enforcement of these laws will address the culture embraced by building unions that revolves around a general disregard for the rule of law. That culture is ingrained and institutionalised.
- 4.5 The existence of this building union culture has been noted by several Royal Commissions who also observe how such culture allows corrupt and criminal behaviour to flourish. In other words, it is a culture that lends itself to circumstances where corrupt or illegal actions are considered.
- 4.6 Better enforcement of more effective industrial relations laws will erode the building unions' culture of disregarding the rule of law. Successfully tackling a culture that allows corruption and misconduct to flourish will, as a consequence, be a positive step towards reducing corrupt and illegal activity.

- 4.7 The remainder of this submission, therefore, seeks to:
- (a) set out the type of misconduct identified by the Heydon Royal Commission and note two key recommendations to address that conduct; specifically, the need to re-establish the ABCC and establish an ROC (section 5);
 - (b) examine and clarify the relationship between the ABCC, ROC and conduct which may be corrupt or illegal (section 6);
 - (c) explain how the actions of building unions create a culture that allows corruption and criminality to flourish (section 7);
 - (d) explain how the recommendations for law reform made by the Heydon Royal Commission would interact with the types of misconduct it identified (section 8);
 - (e) set out why an NIC or related body is not an alternative or substitute for the ABCC (section 9); and
 - (f) detail Master Builders position on an approach to the Committee's considerations on the question of a NIC with reference to the existing frameworks (section 10).

5 Misconduct Identified by the Heydon Royal Commission

- 5.1 The Royal Commission into Trade Union Governance and Corruption (Heydon Royal Commission) was tasked to inquire into the operation and conduct of Registered Organisations (RO's) following a series of high profile situations involving allegations of misconduct and malfeasance.
- 5.2 The Heydon Royal Commission found widespread misconduct in registered organisations that related to the following issues:
- 5.2.1 Financial misconduct;
 - 5.2.2 Favouring the interests of union members over non-union members;
 - 5.2.3 Unauthorised purchases of vehicles and arrangement of unauthorised redundancy payments;
 - 5.2.4 Misleading regulators about the quantity of financial members of registered organisations;

- 5.2.5 Use of union funds for individual private purchases;
 - 5.2.6 Obtaining monies from employers under false pretences;
 - 5.2.7 Sitting of tests to obtain a 'right of entry' permit by persons other than those seeking the permit;
 - 5.2.8 Union officials taking financial payments or benefits in kind from employers;
 - 5.2.9 Blackmail;
 - 5.2.10 Illegal destruction of documents;
 - 5.2.11 Procuring delivery of confidential records;
 - 5.2.12 Officials taking bribes and making death threats;
 - 5.2.13 Use of union funds in litigation which was described as an abuse of process;
 - 5.2.14 Misappropriation of union funds; and
 - 5.2.15 Perjury.
- 5.3 The Commission made a comprehensive series of recommendations for law reform to address the misconduct identified and referred a series of individuals to other regulators and law enforcement agencies for related inquiry and action.
- 5.4 Chief amongst the recommendations for law reform were the need to re-establish the ABCC and a Registered Organisations Commission (ROC).

6 The Relationship Between the ROC, ABCC and Corrupt Conduct

- 6.1 It is important for the Committee to be clear about the relationship between the ABCC, proposed ROC and conduct that can be described as corrupt or criminal.
- 6.2 The re-establishment of the ABCC is an element which is specific to the building and construction sector. The ABCC will be a 'tough cop on the beat' that aims to stamp out the ingrained unlawful behaviours, change industry culture, and ensure the rule of law is observed on building and construction sites. The Myer Emporium and Little Creatures Brewery disputes are two well-known examples where this conduct has been on highly publicised display.

- 6.3 The proposed ROC, in broad terms, is intended to prevent the types of conduct witnessed in the widely publicised events involving the Health Services Union, such as the use of union funds for the personal benefit of union officials. It requires registered organisations to be more transparent and accountable, by requiring them to adopt governance standards akin to those applicable to companies and their directors.
- 6.4 However the ABCC and ROC are not, in and of themselves, the silver bullet answer to stamping out corruption and illegal activity. Nor were they ever intended to be. Rather, they are measures that will address the industry specific unlawful behaviour and practices that allow corruption and illegal activity to flourish.
- 6.5 Equally importantly, the ABCC and ROC are measures that will deliver significant benefits to the community, economy and members of registered organisations. To this end, we refer the Committee to other relevant Master Builders submissions on this topic, specifically:
- 6.5.1 Master Builders Australia - *Submission to the Senate Standing Education and Employment Legislation Committee on the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 - 22 November 2013.*
- 6.5.2 Master Builders Australia – *Supplementary Submission to the Senate Standing Education and Employment Legislation Committee on the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 - 27 November 2013.*
- 6.5.3 Master Builders Australia - *Submission to the Senate Standing Education and Employment Legislation Committee on the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 – 17 January 2014.*
- 6.5.4 Master Builders Australia – *Supplementary Submission to the Senate Standing Education and Employment Legislation Committee on the Building and Construction Industry (Improving Productivity)*

Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 – 24 February 2014.

6.5.5 Master Builders Australia – *Second Supplementary Submission to the Senate Standing Education and Employment References Committee on the the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 – 14 March 2014.*

6.5.6 Master Builders Australia – *Submission to the Senate Standing Education and Employment Legislation Committee on the Building and Construction Industry (Improving Productivity) Bill 2013 [No.2] and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 [No.2] – 19 February 2016.*

6.6 The sentiment noted above at 6.4 was specifically addressed by the Heydon Royal Commission which noted that (our emphasis):

The suggestion that the need for specific industrial regulation cannot be justified by criminal conduct occurring within the industry is misplaced in a number of respects. It ignores the fact that a lot of the criminal conduct for which unions and union officials are responsible arises in the context of breaches of industrial laws (either because it occurs in the course of contravening industrial laws, or because it constitutes a criminal contempt of orders of a court restraining contraventions of industrial laws) and out of a culture of defiance of all laws. It also ignores the ability of a dedicated industrial regulator to assist police, through referrals and information sharing, in combatting criminal activity within the industry.¹

6.7 Master Builders endorses the above observation and contends that a more effective regulation of industrial laws, such as would be the case with a re-established ABCC, will assist in addressing the culture the allows corruption and misconduct to flourish.

¹ Royal Commission into Trade Union Governance and Corruption Final Report, December 2015, Volume 5, Chapter 8, para 84

7 How Culture Allows Corruption to Flourish

- 7.1 Master Builders has long argued for a return of the ABCC. The case for the restoration of the ABCC is overwhelming. The building and construction sector has been hindered by elements causing unlawful behaviour to become ingrained and institutionalised. Illegal picketing and blockades, obstruction of third parties, illegal entry to worksites, intimidation and assaults on employer representatives, the interruption of time critical processes like concrete pours, and illegal pressure on employers to pay union dues or employ union dictated site delegates or OHS representatives, are just some examples.
- 7.2 It is not difficult to understand how these behaviours have become entrenched in the building and construction sector. Work undertaken is project based and building contractors must constantly tender for new work, an important part of which is ensuring a project is delivered on budget and on time. If a project is delayed, or the costs blow out, the contractor will suffer financially, jeopardise their ability to get future work, or both. A construction project delivered on time and on budget are crucial to the success of all building contractors and, importantly, the client and the community.
- 7.3 This is not lost on building unions in the sector. Their role as a registered organisation gives them access to workplace laws which, unfortunately, can be used as tools to delay, or threaten to delay, the work on building sites. As such, these tools are regularly misused and exploited to extract favourable outcomes.
- 7.4 As a result, companies that are 'in favour' with unions are left in relative peace to deliver a project on time and on budget, and stand a better chance of getting future work. Those who fall out of favour, or resist pressure to adopt union demands, suffer the consequences.
- 7.5 The Heydon Royal Commission was the third of its type that focussed on the construction sector, in addition to numerous other inquiries and reports. An entire volume and a half of the Final Report (totalling over 1100 pages) was devoted to the sector and seven of the final recommendations for law reform were specific to building and construction industry participants.
- 7.6 The Royal Commission report contained many case studies highlighting how unlawful behaviour allows corrupt behaviour to flourish. Examples include:

- contractors being told they cannot get work in the ACT without having a union approved EBA;
- the use of WHS right of entry laws to enter worksites to pursue an industrial outcome;
- the threat of industrial action to force employers to pay union memberships for workers;
- pressure to adopt enterprise agreements requiring businesses to make donations to 'charitable bodies' that funnel money back to unions; and
- allegations of bricklayers being told that the rate charged to lay a brick was below the rate set by the pattern EBA and needed to be increased, otherwise they wouldn't find work in the area ever again.

7.7 A superficial view is that the above examples are conduct that is unlawful and contrary to existing laws. In reality, Master Builders notes the bulk of this unlawful behaviour goes undetected. Contractors, in an effort to restore or maintain favour, succumb to union demands ranging from the use of an approved EBA to the payment of moneys to individuals.

7.8 This is where Master Builders believes the ABCC and ROC are important. If enacted, they will impose stricter obligations that will arrest the unlawful practices in the first place. As a consequence of reducing unlawful practices, the scope to engage in corrupt or illegal behaviour is vastly reduced.

7.9 As outlined earlier above, Master Builders contends that a more effective regulation of industrial laws, such as would be the case with a re-established ABCC, will assist in addressing the culture that allows corruption and misconduct to flourish.

7.10 In short, the ABCC will:

- (a) ensure stricter laws are properly enforced causing the rule of law to be maintained on building and construction sites;
- (b) reduce the incidence of unlawful practices and tactics used by building unions that drive a culture based on a disregard for the rule of law;

(c) erode the building union culture that lends itself to corrupt and illegal activity; and

(d) cause positive cultural change that will vastly reduce the scope for situations where corrupt or illegal activity are considered.

7.11 The above view can be exemplified by reference to the taking of unlawful industrial action, such as go-slows or wildcat strikes.

7.12 In the building and construction industry, it is extremely common for building unions to threaten unlawful industrial action (particularly during crucial operational activities, such as concrete pours or crane activities) as an industrial tactic. These threats are made with the knowledge that if such unlawful action is taken, the maximum penalty exposure for the building union (set by the Fair Work Act) will be far lower than the cost of disruption to the builder. These threats are part of the building industry culture. As the Royal Commission observed, building unions consider penalties for unlawful action as 'a cost of doing business'.

7.13 As a result, when faced with threats of unlawful action a builder will make a commercial decision and either agree to union demands or find other ways to avoid the action. The Heydon Royal Commission noted that practices such as offering or procuring bribes or other payments, making donations to union run charities and funds, payments for union memberships without worker consent, or payments for training not delivered, were some of the methods employed by some businesses and unions in order to maintain a good 'working' relationship. A good 'working' relationship is sought as it means that threats of industrial action are rare, or quickly withdrawn.

7.14 The penalty level for unlawful industrial action, compared to the cost exposure for a builder in the industry, unintentionally create circumstances that naturally cause parties to consider actions that could be considered misconduct or corrupt (such as offering or procuring a bribe).

7.15 A re-established ABCC will be underpinned by laws that substantially increase penalties for unlawful industrial action and it is clear existing penalty levels are not high enough to be an effective deterrent.

- 7.16 Such an increase in penalties will bring balance to the cost exposure for unions and builders. As a result, building unions are less likely to threaten unlawful industrial action and, concurrently, builders are less likely to concede when threats are made. This will have a positive effect and change existing industry culture for the better.
- 7.17 It follows that parties will no longer need to contemplate actions to maintain a relationship or consider other actions to achieve a similar aim. Therefore, stronger industrial laws enforced by a regulator with appropriate powers will erode an industry culture that allows corruption to flourish, thereby reducing the scope for situations to occur where illegal activity or misconduct become considerations.
- 7.18 Just as importantly, a re-established ABCC will bring significant benefits to the community and government. The types of unlawful conduct noted above, combined with restrictive and costly employment practices, causing construction costs to be up to 30 percent higher than they ordinarily would be.

8 Heydon Royal Commission – interaction between findings and recommendations for reform

- 8.1 As itemised above at item 4 above, the Heydon Royal Commission identified a wide range of misconduct involving registered organisations and their officials.
- 8.2 Were the ABCC to be re-established, and an ROC to be established in the terms recommended by the Heydon Royal Commission, the majority of the misconduct identified at item 4 above would not be capable of having occurred in the first place and, if they did, they would have been punishable by significant penalty including personal fines and imprisonment.
- 8.3 For example, the misconduct at items 5.2.1, 5.2.3 to 5.2.5, 5.2.7 to 5.2.8, 5.2.10, and 5.2.13 to 5.2.14 would be captured by the requirements of the proposed ROC.
- 8.4 The misconduct at items 5.2.2 and 5.2.6 would be caught by the legislation underpinning a re-established ABCC.
- 8.5 The remaining items of misconduct (blackmail, procurement of confidential records, bribery, making death threats and perjury) are items that are already

prohibited and enforced by a comprehensive range of agencies at all levels of government, including law enforcement agencies. Master Builders notes that the Heydon Royal Commission referred a number of persons and instances of these remaining types of misconduct to other agencies for investigation and action.

9 A National Integrity Commission is not an alternative ABCC

9.1 Master Builders urges the Committee to recognise that any NIC or related body is not an alternative to a re-established ABCC.

9.2 As discussed earlier, a re-established ABCC will be an enforcer of industry specific industrial laws. Master Builders submits that those laws are necessary irrespective of the impact they have on levels of corruption and illegal activity. The nature of the building and construction industry and the work it undertakes, when considered conjunctively with its industrial history and practices, should be categorised as a special case exhibiting unique cultures and conduct that justify the necessity for sector specific industrial laws.

9.3 The need for an industry specific regulator was noted by the Heydon Royal Commission. The Royal Commissioner observed:

One consideration which supports the need for an industry specific regulator is the high level of unlawful conduct in the industry. This is demonstrated by Appendix A to this Chapter. The sustained and entrenched disregard for both industrial and criminal laws shown by the country's largest construction union further supports the need. Given the high level of unlawful activity within the building and construction sector, it is desirable to have a regulator tasked solely with enforcing the law within that sector.²

9.4 And later:

Having regard to all of the available material, the argument that there is no need for an industry specific regulator cannot be sustained.³

² Royal Commission into Trade Union Governance and Corruption Final Report, December 2015, Volume 5, Chapter 8, para 83

³ Ibid at para 97

9.5 It was also observed:

Specialised treatment of a particular industry is not a novel concept: different areas of the financial services industry, for example, are subject to specialised laws and the supervision of a specialised regulator. Many professions are, likewise, subject to specialised laws that govern the manner in which their work is undertaken. It is not necessary to demonstrate in detail the public interest in that state of affairs. In the case of the building and construction industry, the justifications for special treatment have already been advanced.⁴

9.6 The Heydon Royal Commission recommended as follows:

There should continue to be a building and construction industry regulator, separate from the Office of the Fair Work Ombudsman, with the role of investigating and enforcing the Fair Work Act 2009 (Cth) and other relevant industrial laws in connection with building industry participants.⁵

9.7 It should also be noted that the Heydon Royal Commission was not the only inquiry that found a need for a construction industry specific regulator.

9.8 In 1990, the New South Wales Government established a Royal Commission into Productivity in the Building and Construction Industry, headed Commissioner RV Gyles, QC (the Gyles Royal Commission).

9.9 In its final report, the Gyles Commission observed:

It is difficult for a person from outside the building industry, and the militant trade union movement, to understand the motivation for the destructive actions of these officials and activists. There is no doubt that the actions and conduct of this relatively small band has, over the years since the demise of the BLF, cost the public of New South Wales literally billions of dollars, given the industry a reputation which is notorious, and imposed cost penalties upon those wishing to do business in New South

⁴ Ibid at para 108

⁵ Ibid refer to recommendation 61

Wales or to build buildings in New South Wales that is quite indefensible.

The personal aggressiveness, spite and abuse which many of these officials have exhibited time after time to those with whom they come into contact, and certainly anybody who crosses them, is indicative of unusual personalities. Simply to read the language reported by witness after witness would be regarded by most rational individuals as indicative of a personality defect going beyond a chip on the shoulder. The consistency of this pattern indicates that it might be a criterion for selection as an official. Be that as it may, I am no psychologist and can only form a layman's judgements.⁶

And later:

I am left with very much the same feeling that Mr Justice Ludeke expressed in the Adept Cleaning case which is referred to in the Report of the hearings: that there appears to be two BWIUs. The first are the officers of the Federal Office who speak at public forums, promote workplace reforms, and award restructuring, commit the union to no extra claims, to abolition of bodgy safety disputes and claims for lost time, and solemnly negotiate dispute settling procedures. The second simply continues to wage 19th century class warfare on building sites.⁷

- 9.10 The 2002 Royal Commission into the Building and Construction Industry headed by The Honourable Justice Terence Cole RFD QC, handed down its final report in 2003 (the Cole Royal Commission).
- 9.11 In its final report, the building and construction industry was described by the Royal Commission as being characterised by widespread disregard for the rule of law. It found extensive use of inappropriate industrial pressure, disregard for enterprise bargaining and the freedom of association laws leading to unlawful strikes, as well as widespread use of 'inappropriate' payments.
- 9.12 The March 2009 report of Justice Murray Wilcox "Transition to Fair Work Australia for the Building and Construction Industry" (the Wilcox Report) also

⁶ P.22

⁷ P.23

confirmed the need for a specialist regulator for the building and construction industry.

9.13 The report observed:

*However, the ABCC's work is not yet done. Although I accept there has been a big improvement in building industry behaviour during recent years, some problems remain. It would be unfortunate if the inclusion of the ABCC in the OFWO led to a reversal of the progress that has been made.*⁸

9.14 The above reports are just three of the many additional findings that support the need for an industry specific regulator.

9.15 Master Builders also notes that other regulatory and law enforcement agencies are unable to fulfil the role of the proposed ABCC.

9.16 In this regard, we note that Victoria Police has expressed concern about their ability and capacity to deal with unlawful behaviour and conduct in the building and construction sector. They identified several obstacles including the difficulty in distinguishing between criminal activity and lawful industrial activity; the prevalence of witness and victim intimidation; the lack of advance notice by regulators of industrial activity and delayed assessment of publicly available information; and a delay in redress for companies.⁹

9.17 Victoria Police set out several recommendations to improve the effectiveness of their involvement in the sector and took the view that not only is it necessary for there to be a stronger building and construction industry specific penalty regime, but also a '*well-resourced and empowered industrial regulator for that sector.*'¹⁰

9.18 Master Builders supports the above view.

9.19 It should also be observed that, by and large, anti-corruption bodies that exist at the state level generally have power to investigate misconduct only as it

⁸ Wilcox, M, Transition to Fair Work Australia for the Building and Construction Industry, March 2009, p14.

⁹ Victoria Police's Response to the Discussion Paper Options for Law Reform, 19 May 2015, released by the Royal Commission into Trade Union Governance and Corruption, 10 September 2015

¹⁰ Ibid at page 39

relates to public officials, or the interaction of public officials with private individuals or businesses.

- 9.20 Such a limitation on the scope of power, if applied to a similar proposed Commonwealth body, would not cover that many of the circumstances capable of investigation by a re-established ABCC. This is because unions and builders are not public officials and their interactions rarely arise in a context involving a public official or the discharge of public duties. As a result, a proposed NIC would either not be effective in addressing the culture and conduct that exists in the building and construction industry, or alternatively, need to be given a scope of power which would be so broad as to make it ineffective and simply unworkable.
- 9.21 Master Builders also observes that, to the best of our knowledge, no existing state anti-corruption body has examined allegations of misconduct or corruption that relate to the interaction of a union official with a building industry participant.
- 9.22 The Committee should, therefore, not be misled about the scope of any anti-corruption body to adequately deal with the culture existing in the building and construction industry. It is Master Builders' position that any proposed NIC should not be considered by the Committee as an alternative to, or substitute for, a re-established ABCC.

10 The existing framework and the need for a National Integrity Commission

- 10.1 Master Builders maintains a zero tolerance to corruption.
- 10.2 While Australia is consistently ranked one of the least corrupt countries in the world, it is important that vigilance is maintained and we not become complacent.
- 10.3 Master Builders submits that the Committee should adopt an evidence based approach to its consideration of the need for a NIC.
- 10.4 In particular, the Committee should consider whether or not there is evidence demonstrating that:

(a) corrupt and illegal activity exists; and

(b) this corrupt and illegal activity cannot be identified and/or addressed by or within existing frameworks and regimes.

10.5 An evidence based approach to the Committee's considerations is appropriate to avoid regulatory overlap and disturb the work of other existing regimes however so described.

10.6 The above observation is made noting that, at the Commonwealth level, there is currently a comprehensive series of bodies, agencies, legislation and processes that play an important role in ensuring integrity and honesty of parties and individuals.

10.7 These include, but are not limited to:

- The PGPA Act;
- Commonwealth Ombudsman;
- Australian National Audit Office;
- Australian Commission for Law Enforcement Integrity;
- Office of the Australian Public Service Commissioner;
- Office of the Information Commissioner;
- Australian Electoral Commission;
- Freedom of Information laws and processes;
- Regular Senate Estimates hearings;
- A comprehensive framework of Senate, House and Joint Parliamentary Committee and related inquiry processes;
- Public Service Act, the associated APS Code of Conduct and the APS Ethics Advisory Service;
- Australian Federal Police;
- Australian Crime Commission; and
- Australian Securities and Investment Commission.

- 10.8 Master Builders also notes the existence of The Fraud and Anti-Corruption Centre within the Australian Federal Police. This Centre brings together the Australian Taxation Office, the Australian Securities and Investment Commission, the Australian Crime Commission, the Department of Human Services, the Department of Foreign Affairs and Trade, the Department of Immigration and Border Protection, and the Australian Transaction Reports and Analysis Centre to assess, prioritise and respond to serious fraud and corruption measures.
- 10.9 The Centre maintains a coordinated specialist cell that will collect, analyse and disseminate data from Commonwealth partners; engage with existing local intelligence initiatives and work with financial intelligence agencies to assess, prioritise and respond to serious fraud and corruption matters.
- 10.10 It is important that any NIC, if considered necessary, does not disturb or duplicate the work undertaken by these existing agencies and within existing frameworks.
- 10.11 Master Builders also notes the Government has released a paper that considers the appropriateness of adopting a deferred prosecution agreement scheme in Australia. If established, such scheme may encourage individuals and entities to "self-report" behaviour that is corrupt or criminal and provide enforcement agencies and prosecutors with new ways to identify and tackle such conduct.
- 10.12 Master Builders submits that if the Committee finds that circumstances exist which are consistent with the observation made at 8.4 above, then there should be further opportunities for stakeholder input into any system or body designed to address those circumstances.

11 Conclusion

- 11.1 Master Builders reiterates that a NIC or related body does not, and should not, represent a substitute for, or alternative to, the ABCC. Extreme caution should be exercised to ensure that discussion or consideration about a NIC does not create any confusion, or amplify confusion where it may already exist, between the actual role and purpose of the ABCC and the conduct that can be described as corrupt.

- 11.2 Master Builders submits that the Committee should take an evidence based approach to its considerations. The structure, operation and scope of any NIC should only be considered if evidence of corruption or misconduct is found that is not capable of being addressed through existing agencies or regimes. In that event, the Committee should seek further stakeholder input and ensure that any NIC does not overlap or duplicate the work of other agencies or regimes that currently exist.
- 11.3 Master Builders appreciates the opportunity to make a submission to the Senate Select Committee regarding the establishment of a National Integrity Commission.
