

Master Builders Australia

2017-18 PRE-BUDGET SUBMISSION

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## 1 Master Builders Australia

- 1.1 Master Builders is the peak national association for the building and construction industry in Australia. Master Builders' primary role is to champion the interests of the building and construction industry, representing residential and commercial building, and engineering construction.
- 1.2 Master Builders has more than 32,000 member-companies with representation in every State and Territory in Australia, the great majority of which, by number, are small to medium sized enterprises. Master Builders' membership consists of large national, international, residential and commercial builders and civil contractors through to smaller local subcontracting firms, as well as suppliers and professional industry advisers. Membership of Master Builders' represents 95 per cent of all sectors of the building and construction industry.
- 1.3 The building and construction industry is the second largest industry in Australia, accounting for 8.1 per cent of Gross Domestic Product and provides jobs for close to 1.1 million Australians - 8.9 per cent of total employment in Australia.
- 1.4 Owner-occupied housing and other property investments account for over two-thirds of the asset portfolio and wealth of ordinary Australians.
- 1.5 The building and construction industry is made up of approximately 345,000 businesses of which 95 per cent are small businesses and independent contractors. Combined, these businesses employ 670,000 workers including 70,000 apprentices.
- 1.6 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.
- 1.7 This pre-Budget submission sets out Master Builders proposed approaches to addressing these (taxation reform; fiscal consolidation), and other (for example, housing affordability, workplace productivity and skills, and regulation reform) economic policy issues.

## 2 Main Recommendations

### Fiscal Strategy

1. **Develop and deliver on a clear path to a Budget surplus.** This must involve eliminating waste and inefficiency from public spending, and ensuring fiscal settings have a neutral impact on interest rates
2. **Implement the *ten year enterprise tax plan*, with the aim of reducing the ten year time horizon if and when economic conditions and the Budget allow.**
3. Developing more **innovative funding arrangements for public and private infrastructure** projects
4. As a priority Master Builders supports the implementation of **competition payments from the Commonwealth to the state/territory Government's** for the implementation of reforms, particularly in the property sector, that promote greater competition and make the tax system more efficient – consistent with **Recommendation 48 of the Harper Review (2015)**
5. Master Builders endorses **Recommendation 8 of the Harper Review – regulation review.** All Australian Governments should review regulations, including local Government regulations and **eliminate 'red' and 'green' tape costs and compliance burdens where possible.**

### Taxation

6. **Reducing the company tax rate to 25 per cent to increase the competitiveness of Australia's tax settings** – this is must be a first priority to keep Australia's business environment competitive against international standards
7. **Closing the gap between the company tax rate and the higher personal income tax rates**
8. **Abolish stamp duty** on business conveyances, as promised in the 1999 Intergovernmental Agreement on the reform of Commonwealth-State Financial Relations
9. A review of the costs/benefits of **reducing stamp duty on the sale of residential property** to first home buyers
10. **Eliminating the cumulative impact of the Goods and Services Tax (GST).** Specifically, stamp duty should be levied on the GST exclusive price of property and land. Not doing so is imposing 'a tax on a tax'.

11. Reforming developer (infrastructure) charges through the offer of **competition payments that compensate State and local governments** and councils for implementing policy that reduces the tax burden on new residential developments.

### **Housing Affordability**

12. Introduce **payments to higher-performing local governments** based on national competition policy principles, with the aim of encouraging improved delivery of housing related services, amenities and infrastructure.
13. **Streamlined and simplified development approvals** processes for residential developments, with a greater reliance on a code-based assessment and identification of best practice development approvals processes in state/territory and local government.
14. State/territory and local governments to develop and implement **tailored Land Release Plans**. This would include identifying ways to overcome regulatory or other impediments to the supply of new land zoned for residential development.
15. Creating a genuine, comprehensive and enforceable **uniform building code and regulatory system**. COAG must play a leading role in developing the BCA into a nationally consistent central authority for building and construction across all jurisdictions.
16. Ensuring state/territory governments honour their commitment to **abolish stamp duties** on business conveyance of real property.
17. **Develop and annual publication of developer charges applied by all local governments in Australia**. This would not leave anywhere for overcharging local governments to hide and would increase the transparency between infrastructure charges and infrastructure costs.
18. **Improve access to affordable housing**, through increased funding and alternative funding models and better collaboration across the different levels of government and the private sector

### **Small Business**

19. Delivery a **small business-friendly environment** and boosting confidence through stable economic settings.
20. **Security of payments for subcontractors** through policy that protects subcontractors from taking on the implicit business risks of their larger contracting counterparts.
21. Targeted measures to **assist small business employers to take on more apprentices** and help to increase the completion rates for building trade apprentices.
22. **Streamlining the development approvals processes** to help smaller business stem the growing shortfall in new housing supply.

23. **Simplified tender processes and reduced costs** to encourage more small businesses participation in government funded building and construction projects.
24. **Reviewing current regulation at all levels of government** in terms of their real economic cost, with the aim of removing inefficient regulations that bare a high economic cost – regulators should approach regulatory review and removal with the same level of vigour given to the implementation of new regulation.
25. **Subject all new regulations to a transparent and rigorous cost-benefit** analysis framework that is endorsed by the Productivity Commission and is subject to public scrutiny.
26. **Simplify business tax compliance**, recognising that inefficient collection and administration of taxes distorts economic decision making and capital investment.
27. **Assist small businesses by reducing the broader complexity of taxation and industrial relations laws**, tackle the compliance costs of regulation - which too often form an indirect competitive disadvantage for small businesses compared to large businesses – increase their ability to access debt and equity finance and do more to facilitate their participation in government procurement.

#### **Workplace Programs and Agencies**

28. **Proper resourcing for the Australian Building and Construction Commission (ABCC)** to properly fulfil its increased mandate to; increase productivity, reduce disputes and delays, foster greater cooperation between workers and employers on commercial building sites and the economy in general
29. **To keep the remit of the ABCC to that outlined above. Issues pertaining of 457 visa's** and visa holders, as well as the scope of their application should be left to the appropriate government department and **should not form part of the remit of the ABCC**
30. **Preserve the rights of independent contractors** by retaining the current laws that give people choice about how they work and encourage entrepreneurship
31. **Ensure the Registered Organisations Commission (ROC) is properly funded** and focused on ensuring building union officials are held to a standard that is consistent with those expected from our business leaders and elected officials
32. Adopt a **workplace bargaining system in which employers and employees can freely enter into appropriate and lawful workplace agreements**, underpinned by simple safety net conditions. Employers and employees must be the two most important parts of an employment relationship. **The role of third parties should only exist where invited** and must never take precedence over the wishes of employees or employers

33. **Implement fair and simple dismissal laws that place more emphasis on the right of employers** to manage their own business, reflect community expectations and embrace the notion of 'common sense'
34. Continue to pursue **nationally consistent workplace safety laws** and increase the focus on practical safety outcomes and a safety orientated workplace culture
35. **Stop and reverse the growth in overlap between safety laws and industrial relations laws**
36. **Ensure that the concept of workplace safety is not further sullied** by prohibiting notions of 'safety' from being exploited as a tactic to achieve industrial relations outcomes
37. **Review the operation and work of Safe Work Australia** to reduce duplication with other bodies, focus operational activity and improve engagement with employers, including through the appointment of more business representatives to its board
38. Master Builders supports the **Harper Review recommendation (Recommendation 36) on the prohibition of secondary boycotts** in sections 45D-45E of the *Competition and Consumer Act (2010)* to be maintained.

#### **Workforce Skills**

39. Targeted measures to **assist and encourage employers to take on more apprentices** and to increase the completion rates of building trades apprenticeships, including the return of, and increases to previously available incentive programs
40. **Targeted pre-apprenticeship programs** that support site-ready and productive apprentices to boost business productivity and improve safety in the workplace
41. Significantly boost **financial assistance to building and construction industry employers who invest in the training and mentoring** of young people while completing their apprenticeships.
42. Greater support for industry led programs to **increase female participation in the building and construction industry**
43. **Improved investment in VET** to give young people access to publicly funded industry-focussed training upon completing year 12
44. **Review the national VET training system** to remove current complexities, increase business and parent understanding, and implement consistent funding models
45. **Provide industry with a greater role in determining quality training outcomes from RTOs** by allowing industry to provide feedback on their performance
46. Better support for **mentoring programs** that are proven to increase apprenticeship completions



47. More support for **partnership programs between VET and tertiary education providers**, specifically to develop pathways between construction trades and engineering and construction management higher education degrees

#### Infrastructure

48. Increase private sector investment in infrastructure, **with a target of 6 per cent of GDP for public infrastructure investment across all levels of government.**

49. Expand the use of privitisation models. **Revenue from the sale of existing infrastructure assets should be used to fund the development of new infrastructure.**

50. **Developing and marketing tradable public infrastructure bonds on terms of trade and conditions which appeal to a broader spectrum of investors.**

51. **Redirection of government outlays away from recurrent and less productive spending, toward investment in efficiency and competitiveness enhancing infrastructure.**

52. Better policy coordination among the levels of government. **The Federal Government should lead a plan, through COAG, to address Australia's growing infrastructure needs.**

53. **Minimising bid costs for infrastructure supply and financing to ensure the broadest possible range of engagement by potential investors.** Tendering processes for smaller investors should be simplified.

54. Reducing the political risk associated with investment in infrastructure. **This would involve focusing on 'stop-start' government decision making, and the tendency for the constant changing of processes, rules and other key elements of a project once underway.**

55. Master Builders supports measures outlined under **Recommendation 9 of the Harper Review**. *"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."*

56. 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 – **Recommendation 18 of the Harper Review (2015)**

#### Immigration

57. Setting the **permanent migration intake at 240,000 per year**, with a focus on skilled migration
58. **Reducing the visa sponsorship period for employer-nominated visas from three to two years**, to help employers engage in the construction of large projects
59. **Review the 'highly skilled' threshold within employer-nominated visa classes** to reduce ongoing skills shortage in 'middle and semi-skilled' occupations and resulting project bottlenecks

### 3 Introduction

- 3.1 2017 is shaping up to be a year of increased political and global volatility. In that context Australia's economic risks are rising, and we should be raising our defences. This makes the task of Budget repair even more urgent.
- 3.2 The building and construction industry has been a key driver of the Australian economy through a period of transition and has played an important role in helping the economy make the switch from the mining investment boom.
- 3.3 It is the second largest industry in Australia and employs over 1.1 million people. But it is also one of the highest taxed industries, with taxes and charges levied at all three levels of government, raising the cost of building our homes, schools and hospitals.
- 3.4 Master Builders in this submission seeks the Government to consider the *Strong Building Strong Economy* policy priorities, and to strive for a policy framework that helps businesses in the building and construction industry prosper and grow, to do what they do best – building more houses, hospitals and roads, train apprentices and provide more skilled jobs for Australians. Master Builders policy priorities, as set out in the following sections of the submission cover the areas of taxation, fiscal strategy, housing affordability, small business, infrastructure, workplace relations, workforce skills, and immigration.
- 3.5 Master Builder's 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). Our tax reform priorities remain largely unchanged given the lack of implemented policy changes to come out of the Governments White Paper and subsequent discussion papers. Our policy position remain consistent and include:

- 3.6 Safe and Productive Workplaces: Our industrial relations system must be balanced, fair and simple, starting with the proper funding to ensure the re-established Australian Building and Construction Commission (ABCC), with its additional remit responsibilities to enforce and prosecute on its mandate to bring the rule of law back to Australian building site.
- 3.7 Affordable Housing: Keeping homeownership within reach of everyday Australians, through more affordable housing options to reduce the cost of living and improve opportunities for more families and young people to buy their own home. Negative gearing rules must stay.
- 3.8 Jobs and Skills for the Future: Better investment in skills and apprentice training to satisfy the growing demand for construction and trade skills, and to avoid future skills and labour shortages.
- 3.9 Economic Settings for Stability and Growth: Overhauling the tax system and adopting a responsible approach to structural Budget repair that gives confidence to consumers and investors, and establishes a lasting, long-term economic strategy based on sound economic principles.
- 3.10 More Infrastructure and Investment: Greater cooperation between public and private sectors to fund investment in urban and regional infrastructure.
- 3.11 More Small Business and Less Red-Tape: Increased emphasis on the needs of small contractors by continued cuts to red-tape and regulation.

## 4 Economic Overview

### *A business-friendly environment is essential for a stronger economy and more jobs*

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- 4.1 The challenge is to build on Australia's record run of 25 years of uninterrupted economic growth. Our economic performance over the past three decades has been exemplarily and the envy of other developed countries around the world and must be seen as a platform and an opportunity for securing our future in what is shaping up to be a more volatile economic and geo-political environment.
- 4.2 As a result of uninterrupted economic growth most Australians are better off now than any other time in our history. But we cannot rely on our past success, we cannot rest on our laurels nor rely on the rest of the world to secure our future prosperity.
- 4.3 The objective must be maintain our rate of growth in living standards, by implementing economic reforms that support productivity growth in the economy.
- 4.4 While fundamentally sound, the Australian economy faces a number of mounting challenges. For growth to be sustained over the long run, fiscal discipline is needed to bring the structural Budget back in balance, and to address rising Government deficit and debt. The imposition of more and higher taxes must not be the baseline policy position. Instead the Budget setting must be geared towards promoting long run economic growth that is supported by a range of reform measures. Structural reforms to our taxation system and to Government expenditure must be a priority of our fiscal policy to support long run, sustained economic growth.
- 4.5 The urgent need for structural Budget repair was highlighted by the September quarter 2016 National Accounts, which showed a contraction in GDP of 0.5 per cent.
- 4.6 Master Builders acknowledges that the Australian economy continues to undergo a period of adjustment following the global financial crisis and the

resources investment boom. Historically, boom periods are followed by busts in relatively equal portions. But the unwinding of the past resource investment cycle has been relatively smooth but incomplete.

4.7 At the same time, 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 shelter 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.

4.8 Master Builders sees a number of risks to the official forecasts. Official forecasts in the 2017 MYEFO assume revenue growth recovering, with average gains of approximately 5 per cent per year to 2019-20. But with GDP falling in the September quarter 2016 and rising global volatility, including a trend towards more protectionist trade policies, there is a risk that the economic rebound may not be as strong and as a consequence act as a dampener on the Budget, causing revenue to undershoot official estimates.

- 4.9 Growing global political and economic volatility makes the domestic reform agenda urgent. Fiscal policy must take a greater share of the heavy lifting in supporting and sustaining long run economic growth. Australia's trade relationship with China is now more closely tied than any previous two way trade relationship in our history. But China faces economic challenges of its own in the coming decade, with the resulting impacts a direct risk to Australian economic prosperity.
- 4.10 Despite global volatility and ongoing structural adjustments, the domestic outlook remains positive. Master Builders expects Real GDP to grow by 2.7% next year followed by average growth of 3.2% per year over the forward estimates. A strong building and construction industry will be a critical element in support this economic growth. Over the forward estimates the building and construction industry is slated to support \$1.1 trillion in business and infrastructure investment, which will provide jobs for over 1.1 million Australians.

## 5 Building and Construction Industry Outlook

*A strong building and construction industry is vital to a strong economy. It creates jobs, trains apprentices, drives wider economic growth and builds better communities*

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- 5.1 The building and construction is the second largest industry in Australia. It contributed around 9 per cent of GDP in 2015-16 and provides rewarding, well-paying careers for over 1.1 million Australians, representing approximately 9 per cent of the Australian workforce. The Building and construction industry must remain a key industry driver of economic growth and jobs in 2017-18 and beyond.
- 5.2 Master Builders takes the ‘pulse’ of the building and construction industry through its quarterly National Survey of Building and Construction. The Survey provide 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.
- 5.3 The short term outlook for the building and construction industry is optimistic amongst industry players, with most metrics of performance showing positive sentiments or signs of improvement. For instance:
- business confidence improved significantly in December 2016, driven largely by a return to more positive sentiments for non-residential builders;
  - by sector, both residential and non-residential builders see further strengthening in activity levels over the coming six months, with the index for future building activity now more positive for non-residential builders than for residential builders;
  - Business conditions improved during the second half of 2016, driven by higher profits and an improvement in sales contracts. Hiring intentions recorded their best quarter result in more than two years, and the reintroduction of the ABCC was noted as a positive, particularly for builders in the non-residential and engineering construction sectors.



- However, sentiments do vary considerably by state/territory with NSW and Victoria leading the positive outlook, while Western Australia, Queensland and the Northern Territory continue to face challenges as resources related building activity continues to fall.
- 5.4 Master Builders also prepares its own Building and Construction industry forecasts. The forecasts show a period of transition ahead with the three major industry sectors of building and construction – engineering, non-residential, and residential construction – all at very different stages in their investment and construction cycles.
- 5.5 **Residential building** is expected to peak in the next 12 months, but not before a record building effort in 2016-17, with the total value of new homes construction expected to reach \$66.7 billion and renovations expected to contribute an additional \$7 billion.
- 5.5.1 This upturn has been driven by a number of factors, including sustained low interest rates, the availability of first home owner grants which favour new ahead of established dwelling, and strong demand from both domestic and foreign investors.
- 5.5.2 Dwelling commencements are expected to moderate earlier, to a projection for 206,900 new dwelling commencements in 2016-17 – a fall of 9.9 per cent on the record number of 229,500 commencements recorded in 2015-16.
- 5.5.3 In terms of the value of work done, residential building activity should be well into a period of consolidation by 2017-18, with activity forecast to fall by 10.1% (\$7 billion) during the year.
- 5.5.4 Over the forward estimates, the residential building task is significant, with the combined value of construction work to 2020-21 projected at over \$314 billion (in 2013-14 prices), and includes the construction of over 900,000 new dwellings.
- 5.6 The **non-residential building** activity is expected to be soft in 2016-17, with the value of work done expected to fall by 10 per cent during the year. But the outlook presents more positive prospects, with non-residential building activity expected to record growth in each of the remaining years of the Budget forward estimates. On average, non-residential building activity is expected to growth

by 1.7 per cent per year over the next four years, with the total value of non-residential building work to reach \$34.1 billion in 2020-21.

5.6.1 Master Builders expects total commercial building work done to drop 18%, in real terms, over 2015-16 and 2016-17.

5.6.2 Office building is expected to decline by 28.5% in 2016-17, while health, transport buildings, retail and other commercial & industrial building will also fall significantly in 2016-17 and 2017-18.

5.6.3 On the other hand, areas of strength over the next year include agriculture and aquiculture (13.4%), accommodation (11.2%) and warehousing (8.6%).

5.7 The **engineering construction** sector continues to undergo a painful transition following almost a decade of boom conditions, driven by major investment into expanding mineral and gas production capacity. The latter is expected to weigh negatively on the value of broader engineering construction in 2016-17, with engineering construction work forecasts to fall by \$17.3 billion (-18.4 per cent), as the last of the major LNG projects in Western Australia and Queensland are completed. Looking ahead, engineering work is expected grow by 7.4 per cent in 2017-18 and expand in each of the following years of the forward estimates.

5.7.1 The downturn in resources investment will continue through 2017-18, driven from this point onwards by a big decline in LNG and related gas field and pipeline work. Over the two years from 2015-16 to 2017-18, resources related construction work is forecast to fall by more than half, taking more than \$22 billion worth of resource related construction activity out of the economy.

5.7.2 Transport infrastructure construction work is forecast to be over \$6 billion higher in 2016-17 than the previous year, growing by 29.8%. Over the four years to 2019-20 the total value of transport related construction is projected to be upwards of \$132 billion, outdoing resources related investment by a ratio of almost 2:1 and accounting for \$2 in every \$5 spent on engineering construction investments in Australia over the next four years.

5.8 **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:

- Increased global volatility and emergence of protectionist trade policies;
- the future direction for China's economy and Chinese policy on capital controls, given its significance as a destination for our exports (of both commodities and services), and a major source of capital investment;
- the future direction of interest rates, which play an important role in home-buyer and business investor decision-making, as well as individual's debt servicing power;
- Added to this is the risk that Australia loses its AAA credit rating. Doing so may raise the cost of capital and reduce access to capital at a time when private business investment in Australia is in desperate need of stimulus. Last time Australia lost its AAA credit rating it took almost two decades to get it back. This may also take some power away from monetary policy if retail banks are forced to raise mortgage rates or not pass on potential future cuts to the official cash rate. Losing the AAA credit rating would also cause interest on Government debt to rise and may impact the path back to a balanced Budget.

5.9 Another important driver of demand for buildings and homes is population growth. A T clearly stated medium to longer term net overseas migration intake, which is likely to account for almost 60 per cent of our population growth, would help in the planning process and would give building and construction business greater clarity to make long term business decisions about how and where they should be investing resources. By setting a consistent migration target of 240,000, we lock in the trajectory of population growth and have a much better idea about the future demand for infrastructure, commercial and social buildings, and housing. .

5.10 Master Builders recognises global economic conditions and prospects of the Chinese economy are largely outside the field of influence of the Australian Government. However, the other three – interest rates, Australia's AAA credit rating, and the migration program – are within scope.

## 6 Fiscal Strategy

*Addressing Australia's structural Budget deficit and adjusting economic policy settings will help restore confidence to investors and consumers*

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### Policy Recommendations

60. **Develop and deliver on a clear path to a Budget surplus.** This must involve eliminating waste and inefficiency from public spending, and ensuring fiscal settings have a neutral impact on interest rates
61. **Implement the *ten year enterprise tax plan*, with the aim of reducing the ten year time horizon if and when economic conditions and the Budget allow.**
62. Developing more **innovative funding arrangements for public and private infrastructure** projects
63. As a priority Master Builders supports the implementation of **competition payments from the Commonwealth to the state/territory Government's** for the implementation of reforms, particularly in the property sector, that promote greater competition and make the tax system more efficient – consistent with **Recommendation 48 of the Harper Review (2015)**
64. Master Builders endorses **Recommendation 8 of the Harper Review – regulation review.** All Australian Governments should review regulations, including local Government regulations and **eliminate 'red' and 'green' tape costs and compliance burdens where possible.**

6.1

6.2 Master Builders sees it as an imperative for the Government to prioritise Budget measures that maximise opportunities for economic growth through tax and productivity enhancing reforms. This must involve eliminating waste and inefficiency from public spending, and ensuring fiscal settings have a neutral impact on interest rates

6.3 A significant risk is the structural imbalance between Government revenue and spending that has underpinned a period of successive deficits, dating back to 2009.

*“Australia has experienced one of the fastest rises in public debt in the world since the Global Financial Crisis (GFC) and federal budget deficits have*

*persisted for longer than previous fiscal stimulus episodes in the 1980s and 1990s. Subsequent fiscal repair has also been weaker and less than in the United States, United Kingdom, New Zealand and the Euro area.” (Makin, 2016)*

- 6.4 The Federal Budget now faces up to 13 years (or more) of consecutive deficits, at a time when economic activity has been relatively healthy. The fiscal deficits we are facing are structural, underpinned by permanent spending promises locked in during a temporary boom period. Hence, tax reform that makes the economy more efficient and sustains long run growth must be a priority.
- 6.5 The Budget imbalance must be addressed in order to make resources available to support a reform agenda. Specifically, the Treasurer Hon. Scott Morrison has noted that in order to provide competition payments to states/territory Governments to support the implementation of reforms that promote competition and productivity, the Budget must first be in balance and savings measures must pass Parliament. This is a policy position supported by Master Builders.
- 6.6 Master Builders supports the Government's *ten year enterprise tax plan* that aims to cut taxes for small and medium-sized businesses, boost new investment, and supports growth in jobs and real wages. However the ten year implementation time horizon should be shortened as soon as economic and Budget conditions allow and also be extended to all enterprises regardless of size.
- 6.7 The Government's investment in the national innovation and science agenda, including financial support for start-ups are supported examples of how to foster new areas of economic growth.
- 6.8 Master Builders welcomed last year the Government's effort to adjust the personal income tax scale to avoid bracket creep. A tax increase on individuals through bracket creep is inequitable and is a disincentive for individuals to work harder and earn more.
- 6.9 Master Builders would urge the Government to ensure personal income taxes do not rise as a share of total personal incomes and would encourage the government to implement a long term policy that aims to reduce the marginal personal income tax rates.

- 6.10 The Government must live within its means. Although Australia's Government debt to GDP ratio is low by OECD standards, at 30 per cent, total debt held by households, the banking sector and the various levels of Government sum up to around 250 per cent of GDP. Government debt is also predominantly owed to foreign bondholders, with foreign debt repayments unmatched by domestic capital accumulation. Government foreign debt can provide a boost to the economy as long as capital is allocated to programs and investments that boost productivity and economic growth. But using foreign debt to service short term spending commitments is unsustainable.

### **Private Investment in infrastructure**

- 6.11 Master Builders supports the Federal Government's strategy to boost growth through its \$50 billion infrastructure package, noting the key role the building and construction sector will play in supporting growth through the delivery of new infrastructure. The government must develop clear and innovative funding arrangements for public and private infrastructure projects.
- 6.12 However, Master Builders does not support the removal of around \$600 million in funding for the Asset Recycling Initiative at a time when Australia is facing an infrastructure shortfall of over \$700 billion.
- 6.13 Over the forward estimates the building and construction industry is slated to support \$1.1 trillion in business and infrastructure investment, which will provide jobs for over 1.1 million Australians.

### **Competition reform**

- 6.14 Master Builders would encourage the Government to allocate funding to implement measures to increase and promote competition in the building and construction industry in the Australian economy more broadly. A number of recommendations have been recently outlined under the Australian Government's Competition Policy Review (the Harper Review, 2015). Master Builders also acknowledges the key principles of competition policy identified under the Hilmer Review (1993):

- *limiting anti-competitive conduct of firms;*

- *reforming regulation which unjustifiably restricts competition;*
- *reforming the structure of public monopolies to facilitate competition;*
- *providing third-party access to certain facilities that are essential for competition;*
- *restraining monopoly pricing behaviour; and*
- *fostering 'competitive neutrality' between Government and private businesses when they compete.*

6.15 Master Builders supports the competition principles as outlined under Recommendation 1 of the Harper Review (2015), including:

- *Competition policies, laws and institutions should promote the long term interests of consumers.*
- *Legislative frameworks and Government policies and regulations binding the public or private sectors should not restrict competition.*
- *Governments should promote consumer choice when funding, procuring or providing goods and services and enable informed choices by consumers.*
- *The model for Government provision or procurement of goods and services should separate the interests of policy (including funding), regulation and service provision, and should encourage a diversity of providers.*
- *Governments should separate remaining public monopolies from competitive service elements, and also separate contestable elements into smaller independent business activities.*
- *Government business activities that compete with private provision, whether for profit or not for profit, should comply*

*with competitive neutrality principles to ensure they do not enjoy a net competitive advantage simply as a result of Government ownership.*

- *A right to third party access to significant bottleneck infrastructure should be granted where it would promote a material increase in competition in dependent markets and would promote the public interest.*
- *Independent authorities should set, administer or oversee prices for natural monopoly infrastructure providers.*

6.16 Applying these principles should be subject to a public interest test, such that legislation or Government policy should not restrict competition unless:

- *the benefits of the restriction to the community as a whole outweigh the costs; and*
- *the objectives of the legislation or Government policy can only be achieved by restricting competition.*

6.17 In terms of the efficient provision of public infrastructure - which is discussed in more detail in later sections of this submission – in the context of a broader fiscal strategy, Master Builders policy position remains consistent with Recommendation 13.1 of the 2014 Public Infrastructure Inquiry. In short the most critical recommendation from the inquiry in the current context is that:

*Australian, State and Territory Governments should adopt codes and guidelines with an essentially similar framework to the Victorian Code of Practice for the Building and Construction Industry for their own major infrastructure purchases.*

*The Australian Government should require compliance with these guidelines as a precondition for any infrastructure funds it provides to State and Territory Governments.*

## **Competition Payments**

6.18 As a priority Master Builders supports the implementation of competition payments as part of a wider fiscal strategy between the Commonwealth and



the State/Territory Governments for the implementation of reforms, particularly in the property sector, that promote greater competition and make the tax system more efficient. The important role that competition payments are likely to play in promoting housing affordability is discussed in later sections in this submission in the context of a wider policy framework for housing affordability.

6.19 There is a case to be made that the benefits of reform, including any fiscal dividend, should be commensurate with the reform effort made. The differing revenue bases of the Commonwealth and the States and Territories mean that revenue may not flow in proportion to reform effort. (Harper, 2015)

6.20 In that context, Master Builders supports the Recommendation 48 of the Harper Review – competition payments. To include:

- *A review by the Productivity Commission into reforms agreed to by the Commonwealth and state/territory Governments to estimate their effect on revenue in each jurisdiction;*
- *Competition policy payments should ensure that revenue gains flowing from reform accrue to the jurisdictions undertaking the reform; and*
- *Reform effort should be assessed by the Australian Council for Competition Policy based on actual implementation of reform measures, not on undertaking reviews.*

6.21 However, such competition payments should only be paid:

- *for ‘additionality’ – that is, not just for doing what is necessary, but for doing ‘more than is required’;*
- *based on competition between the States/Territories for a given pool of funds, with disbursements based on agreed targeted areas of reform, promptness and boldness of action against transparent benchmarks; and*
- *only on an ex post basis against proven outcomes and enforceable commitments against recidivist or countervailing behaviour elsewhere.*

6.22 Master Builders endorses an active role for the proposed Australian Council for Competition Policy in assessing reform outcomes (as distinct to reform efforts),

and through this channel the quantum and distribution of any competition payments.

## Regulation Review

- 6.23 Master Builders would also highlight, through its commercial arrangements entered into with market participants, the Government (whether in right of the Commonwealth, state, territory or local Governments) has the potential to harm competition and consumer welfare. For example the provision of land by state and local Governments that does not meet short term demand, causing the price of land to be higher than its equilibrium (market efficient) price is anti-competitive and inequitable.
- 6.24 Master Builder endorses the recommendation of the Harper Review Panel in their conclusion that “the anti-competitive conduct provisions of the Competition and Consumer Act 2010 (CCA) should cover Government activities that have a trading or commercial character.” (Harper Review, 2015)
- 6.25 Master Builders urges the Government to remove regulations that limit user choice and the diversity of product offerings, noting that land and zoning regulation currently place costly restrictions that skew the provision of physical capital in the economy. This is particularly true in the housing market where restrictive land release policies and zoning laws limit user choice, and cause land prices to be above a fair value to the community.
- 6.26 In this context Master Builders endorses Recommendation 8 of the Harper Review – regulation review. All Australian Governments should review regulations, including local Government regulations, in their jurisdictions to ensure that unnecessary restrictions on competition are removed. Further:
- *Legislation (including Acts, ordinances and regulations) should be subject to a public interest test and 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 legislation can only be achieved by restricting competition.*

*Factors to consider in assessing the public interest should be determined on a case by case basis and not narrowed to a specific set of indicators.*

## 7 Taxation

*The building and construction industry is one of the most intensely regulated industries in Australia. This adds to the cost of building homes and community infrastructure*

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### Policy Recommendations

65. **Reducing the company tax rate to 25 per cent to increase the competitiveness of Australia's tax settings** – this is must be a first priority to keep Australia's business environment competitive against international standards
66. **Closing the gap between the company tax rate and the higher personal income tax rates**
67. **Abolish stamp duty** on business conveyances, as promised in the 1999 Intergovernmental Agreement on the reform of Commonwealth-State Financial Relations
68. A review of the costs/benefits of **reducing stamp duty on the sale of residential property** to first home buyers
69. **Eliminating the cumulative impact of the Goods and Services Tax (GST)**. Specifically, stamp duty should be levied on the GST exclusive price of property and land. Not doing so is imposing 'a tax on a tax'.
70. Reforming developer (infrastructure) charges through the offer of **competition payments that compensate State and local governments** and councils for implementing policy that reduces the tax burden on new residential developments.

7.1 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. But the increasing ease that capital (and investment) can cross borders means the tax system must also be internationally competitive. The answer does not lie in more and increased taxation.

7.2 Meanwhile, the economy is also not providing the windfall it once did. As much as the mining boom was a win for the economy, it was an even bigger win for the Budget. Company taxes ballooned, while investment into expanding mining / oil and gas infrastructure pushed up everything from retail spending to house prices.

7.3 Australia cannot rely on the world to underpin the nation's taxation challenge. Tax reform must be the fundamental response to put Australia back in a

competitive position. As a net importer of capital our 30 per cent company tax rate provides a direct disincentive for businesses to make investments in Australia – for international and Australian companies alike.

- 7.4 The building and construction industry relies, in large part, on imported foreign capital to fund major infrastructure project and residential construction activity. Reducing the company tax rate to 25 per cent, at a minimum, would help to restore Australia's competitiveness in a world where international capital is highly mobile and global corporate tax rates are have been falling for a number of years.
- 7.5 The building and construction sector is one of the most intensely taxed in Australia, and bears a direct and indirect tax burden from all levels of Government — Federal, State/Territory and local. This high and onerous tax burden distorts investment decisions, discourages entrepreneurship and innovation, and reduces business investment and employment opportunities. It also diverts scarce resources into unproductive and unnecessarily costly -time and money -tax compliance within a key sector of the Australian economy.

### **Master Builders Tax Reform Agenda**

- 7.6 Master Builder's 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). Our tax reform priorities remain largely unchanged given the lack of implemented policy changes to come out of the Governments White Paper and subsequent discussion papers.
- 7.7 There has been a considerable body of work undertaken by Treasury, the Productivity Commission and other entities that have identified the areas of taxation in need of reform if we are to remain globally competitive. The challenge is for Government to begin the complex process of implementing the raft of reform recommendations of previous reviews and Papers.

7.8 Master Builder's main priorities for tax reform for the building and construction industry are:

- To provide incentive payments (competition payments) to encourage reform of state/territory land and property tax policies to reduce the unfair tax burden placed on the property sector, as well as the removal of planning and zoning impediments to the efficient supply of new homes.
- Retaining the tax exempt status of home ownership and to keep negative gearing rules intact..
- Reducing the company tax rate to 25 per cent for businesses of all sizes
- To simplify tax compliance and reduce repetition of red tape across different levels of Government.
- To reduce the difference between the highest income tax bracket and the company tax rate.
- A review of the scope of the GST to be broader based, to help remove the structural deficit in state/territory and the Commonwealth Budget, and a review of the potential to use higher GST revenues as an offset to reduce state/territory Governments reliance on property taxes and stamp duties.
- 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 consider very carefully, particularly in the housing market.

7.9 Australia's tax system must be as efficient and globally competitive if Australia is to fulfil its economic potential and remain an attractive destination for globally sourced investment and capital. This is an important underpinning to sustaining and advancing our standard of living.

## Competition payments

- 7.10 Master Builders supports Recommendation 48 of the Harper Review into Competition Policy that notes the use of competition payments and the establishment of the Australian Council for Competition Policy to provide incentives for state/territory and local Government reforms.
- 7.11 Competition payments have worked before, as part of the National Competition Policy (NCP) reform program that followed recommendations from the 1992 Hilmer Review – competition payments would work again.

## Company Tax

- 7.12 Private business investment levels, it would appear, are not responding to record low interest rates. Businesses need incentives and certainty to grow and employ more workers, which in turn, will support employment and wage growth.
- 7.13 Australia's company tax rate is too high, it is a barrier to Australia's economic competitiveness and is a disincentive for foreign investment. As a net importer of capital it is important that Australia's tax system supports the flow of international capital into the Australian economy.
- 7.14 Australia's company tax rate is uncompetitive compared to an OECD average of 24.81 per cent (2015). Reducing the company tax rate to 25 per cent for businesses of all sizes is not a tax grab for businesses, it is a sensible response to the increasing international mobility of capital, at a time when other countries are reducing their corporate tax rates.
- 7.15 Master Builder recommends reducing the company tax rate to 25 per cent for all businesses by the end of decade. The goal must be for Australia's company tax rate to be globally competitive by 2030.
- 7.16 Company tax is an inefficient tax. The US and UK recognise this and have made public commitments to significantly reduce their tax rates, following the path of many countries before them who have much lower company tax rates than Australia.
- 7.17 Master Builders also calls for a reduction in the differential between the higher marginal personal income tax rates and the company tax rate. Such a measure would help improve tax compliance and, through lower income tax rates,

improve productivity and workforce participation (especially by secondary and marginal earners) and act as an incentive for domestic saving which would, in turn, lower the cost of capital for business, especially smaller businesses.

### **Goods and Services Tax**

- 7.18 Master Builders recommends the Government reconsider the potential for the GST to be broader based despite the political challenges. This could be achieved by independent external reviews for instance. 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). The broadening the GST base, would help offset proposed reforms to state/territory property taxes and charges.
- 7.19 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.



## 8 Housing Affordability

*More homes, fewer taxes, quicker approvals and less red-tape are essential elements to keep homeownership within reach of everyday Australians*

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### Policy Recommendations:

71. Introduce **payments to higher-performing local governments** based on national competition policy principles, with the aim of encouraging improved delivery of housing related services, amenities and infrastructure.
72. **Streamlined and simplified development approvals** processes for residential developments, with a greater reliance on a code-based assessment and identification of best practice development approvals processes in state/territory and local government.
73. State/territory and local governments to develop and implement **tailored Land Release Plans**. This would include identifying ways to overcome regulatory or other impediments to the supply of new land zoned for residential development.
74. Creating a genuine, comprehensive and enforceable **uniform building code and regulatory system**. COAG must play a leading role in developing the BCA into a nationally consistent central authority for building and construction across all jurisdictions.
75. Ensuring state/territory governments honour their commitment to **abolish stamp duties** on business conveyance of real property.
76. **Develop and annual publication of developer charges applied by all local governments in Australia**. This would not leave anywhere for overcharging local governments to hide and would increase the transparency between infrastructure charges and infrastructure costs.
77. **Improve access to affordable housing**, through increased funding and alternative funding models and better collaboration across the different levels of government and the private sector

- 8.1 Master Builders welcomes the clear recognition by the Federal Government of the ongoing problem of housing affordability across all Australian capital cities, and a growing number of regional growth areas. The White Paper on Taxation (Henry Review, 2009), the subsequent Treasury discussion papers “Re;Think: Tax Discussion Paper”, the Senate Inquiry into housing affordability, the House of Representatives Standing Committee “Report on the Inquiry into Home Ownership”, and the Treasury inquiry into innovative financing models for

affordable/social housing, provide important opportunities for action on reforming inefficient taxes and charges, and to reform the structural barriers which unnecessarily inflate the cost of housing and limit new housing supply.

*“Measures to increase land supply... would likely stimulate an increase in production and a reduction in the price of new housing.”* (National Housing Supply Council Report, State of Supply, 2009)

8.2 Master Builders calls on the Federal Government work through COAG to address the numerous bottlenecks and impediments to supply in the residential building sector. The Federal Government must provide leadership to work with State, Territory and local jurisdictions to remove unnecessary supply constraints and abolish or reduce inefficient property taxes and charges.

8.3 The adequate supply of appropriate and affordable housing is a critical part of the Australian economic and social fabric. Australia has one of the highest rates of home-ownership in the world but this is slipping. More than two-thirds of Australians currently own or are in the process of buying their own home. The high rate of home ownership and strong public policy commitment over many years by Governments of both major political persuasions to home ownership has enriched Australia both in economic and social terms. This must remain a key policy objective for all Governments - to ensure affordable housing is available for all Australians.

8.4 A co-ordinated and proactive public policy agenda by Federal, State and Territory, and local Governments is needed to facilitate home ownership and to reverse the trend which is seeing homeownership increasingly being out of reach of a growing share of the Australian population. 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.

8.5 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.

8.6 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 Builder's position is consistent with Recommendation 48 – competition payments, of the Australian Government's Competition White Paper (Harper Review, 2015)<sup>1</sup>.

8.7 Key elements of a robust National Housing Affordability Agenda (NHAA), and associated 'competitive, efficiency dividend' payments, include:

- Tangible outcomes in improving the efficiency, and the supply-side efficiency in particular, of the Australian housing market;
- Annual publication by the Federal Department of Industry on its website of a rigorous and transparent stocktake of approaches to developer/infrastructure charges by all local Governments in Australia. The stocktake would examine the nature, the processes involved and the incidence of the charges imposed on 'brownfields' and 'greenfields' (both fringe and infill) developments for a normalised set of developments;
- An efficient housing market, which would have a number of features, including one not burdened by unnecessary distortions: (to make market prices the principal method by which housing demand signals are transmitted to housing

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

suppliers); and, by regulatory, and poorly targeted subsidy and taxation intervention;

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

8.8 In the medium to long term, committing to a NHAA by removing or ameliorating structural legislative, regulatory and fiscal impediments to housing supply will result in less outlays in transfers and in the provision of public and social housing, and less upward pressure on inflation. In other words, there is a structural dividend to be gained.

- 8.9 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 set appropriate infrastructure charges (developer charges) must be top priorities for the Federal Government.
- 8.10 In the taxation sphere, Master Builders advocates urgent reform of inefficient and costly infrastructure taxes, charges and levies.
- 8.11 Master Builders housing policy also advocates:
- maintaining the tax-exempt status of the family home;
  - retaining the current 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,
  - mandatory minimum energy efficiency standards not to exceed six stars.

### **Negative gearing**

- 8.12 Master Builders urges the Government to maintain its policy to keep negative gearing rules for property investment unchanged and intact. Removing negative gearing rules from property investment, but not other types of investments would constitute unfair treatment of property investors and cause a greater variation in the treatment of debt financed versus equity finance.
- 8.13 Keeping negative gearing on property investments would ensure capital investment into property is treated equitably compared to other types of capital investments like stock, or investment into capital used in the generation of personal income, such as tools for trade workers.
- 8.14 The Australian Taxation Office (ATO, 2016) reports almost 1.3 million personal income taxpayers claimed net negative rental income on residential property of almost \$3.8 billion (or an average of just over \$2,920 per claimant) in the 2013/14 financial year (the latest for which figures are available).

- 8.15 The taxation treatment of investment properties (which includes negative gearing) has been given expansive consideration in recent reviews (both completed and ongoing) of Australia’s taxation system, most notably:
- the “Australia’s Future Tax System” review (also known as the “Henry Report; Australian Government (2009); and,
  - the current “RE: Think” tax reform process (Australian Government, 2015).
- 8.16 In short, both reviews cautioned against changing the tax treatment of investment properties, particular before structural impediments to supply are addressed and resolved.
- 8.17 The “Henry Report” (Australian Government, 2009) in their final report concluded (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).
- 8.18 Taken as a whole, the Henry Report concluded (at page 420):
- “A range of other policies are likely to have a more significant impact on housing supply than tax settings.*
- The tax system is unlikely to be an effective instrument to move housing prices toward a particular desired level and the tax system is not the appropriate tool for addressing the impact of other policies on housing affordability.”*
- 8.19 The Government’s tax reform process (Australian Government, 2015) also makes a number of important observations (at pages 63 to 65 inclusive) about the operation of ‘negative gearing’ within the Australian taxation system.
- 8.20 These observations include:

- the tax treatment of investment in real estate is the same as that for investment in any other asset which produces current incomes;
- many of the reasons people invest in residential property rather than other assets have little to do with taxation;
- negative gearing of itself does not cause a tax distortion;
- negative gearing allows more people to enter the asset market (for example, residential property) than would otherwise be the case (for example, if they relied on equity funding alone);
- negative gearing promotes consistency of treatment between debt and equity funding (through its treatment of interest expenses); and,
- any taxation advantages for individuals investing in residential property do not come from borrowing (that is, negative gearing) but rather from the tax treatment of any capital gains on the asset concerned.

8.21 The House of Representatives Standing Committee on Economics, “Report on the Inquiry into Home Ownership” (2016) made a number of important observations that further support negative gearing as part of the tax system:

- Negative gearing is not a tax deduction accessed primarily by the rich. Indeed the Treasury, in its, “Re:Think – Tax Discussion Paper” notes that “the distribution of people with negatively geared properties follows that of the tax system, that is, the majority are in the middle income bracket.”  
Master Builders has done extensive work into the profile of housing investors and would be willing to talk further with the Treasury in regard to the matter.
- The Reserve Bank commented, “in terms of our financial stability mandate, we think that it is within our mandate to make observations about where in the institutional framework, including the tax system, there might be incentives to engage in more leverage, because it is the leverage piece that is so important for financial stability, both of the financial sector and of the household sector.”

- 8.22 In this context, changing or removing negative gearing rules from property investments, presents a greater risk to Australia's financial stability and the stability of the housing market. Master Builders sees this as an unacceptable risk to the Australian economy and Australian living standards given the housing sector is home to over two-thirds of the asset portfolio and wealth of ordinary Australians.
- 8.23 By promoting private investment into property, negative gearing helps to reduce Government expenditure on social and public housing. Modelling by Master Builders estimates that negative gearing accounts for between 9 and 11 per cent of the supply of new rental properties each year.
- In 2014-15 this equated to more than 22,900 new dwellings, providing shelter for over 60,800 people.
  - The counterfactual, had negative gearing not been available, would have meant Governments, at the state and federal level would have been called upon to fund the supply of these homes, at a cost of over \$16 billion.
- 8.24 Master Builders rejects claims from some commentators and the opposition that removing negative gearing would constitute a budget saving, due to the offsetting additional demand for social and public housing that would need to be funded. In 2014-15, net negative gearing payments cost \$3.72 billion, far less than the cost of supplying additional social and public housing.
- 8.25 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 must not encourage one form of investment over others.



## 9 Small Business

*Small business is a crucial part of the building industry, the economy and our country. More small businesses and less regulation are essential ingredients for our future prosperity*

### Policy Recommendations:

78. Delivery a **small business-friendly environment** and boosting confidence through stable economic settings.
79. **Security of payments for subcontractors** through policy that protects subcontractors from taking on the implicit business risks of their larger contracting counterparts.
80. Targeted measures to **assist small business employers to take on more apprentices** and help to increase the completion rates for building trade apprentices.
81. **Streamlining the development approvals processes** to help smaller business stem the growing shortfall in new housing supply.
82. **Simplified tender processes and reduced costs** to encourage more small businesses participation in government funded building and construction projects.
83. **Reviewing current regulation at all levels of government** in terms of their real economic cost, with the aim of removing inefficient regulations that bare a high economic cost – regulators should approach regulatory review and removal with the same level of vigour given to the implementation of new regulation.
84. **Subject all new regulations to a transparent and rigorous cost-benefit** analysis framework that is endorsed by the Productivity Commission and is subject to public scrutiny.
85. **Simplify business tax compliance**, recognising that inefficient collection and administration of taxes distorts economic decision making and capital investment.
86. **Assist small businesses by reducing the broader complexity of taxation and industrial relations laws**, tackle the compliance costs of regulation - which too often form an indirect competitive disadvantage for small businesses compared to large businesses – increase their ability to access debt and equity finance and do more to facilitate their participation in government procurement.

9.1 Small businesses account for nearly 98 per cent of firms in the building and construction industry. These 344,000 small businesses are a key engine of productivity in the building and construction industry.

9.2 Without a confident, energetic, entrepreneurial and innovative small business sector, we cannot have a strong building and construction industry, a strong

economy, more liveable communities, strong employment growth, and more training opportunities.

- 9.3 The building and construction industry is one of the most intensely regulated industries in Australia, with legislation and regulation imposed at all three levels of Government.
- 9.4 Unnecessary over-regulation shackles the industry with 'red' and 'green' tape, sapping entrepreneurial effort and stunting innovation and productivity growth. It stops small business from doing what it does best – creating jobs.
- 9.5 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 that limits the construction of new homes, hospitals, schools and roads.
- 9.6 New regulation must be test rigorously against a standard cost-benefit analysis, endorsed by the Productivity Commission and made available for public scrutiny.

### **Business simplification**

- 9.7 Master Builders welcomes moves by the Federal Government to cut company tax, reduce medium term spending and privatise assets, as this should over time free up resources and assist individuals and businesses to succeed. Also welcome are moves to reduce the regulatory burden on business, individuals and the community by \$1 billion a year through an aggressive agenda to cut red and green tape.
- 9.8 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.

## 10 Workplace programs/agencies

### *The building industry needs a safe and productive workplace relations environment*

#### **Policy recommendations:**

87. **Proper resourcing for the Australian Building and Construction Commission (ABCC)** to properly fulfil its increased mandate to; increase productivity, reduce disputes and delays, foster greater cooperation between workers and employers on commercial building sites and the economy in general
88. **To keep the remit of the ABCC to that outlined above. Issues pertaining of 457 visa's** and visa holders, as well as the scope of their application should be left to the appropriate government department and **should not form part of the remit of the ABCC**
89. **Preserve the rights of independent contractors** by retaining the current laws that give people choice about how they work and encourage entrepreneurship
90. **Ensure the Registered Organisations Commission (ROC) is properly funded** and focused on ensuring building union officials are held to a standard that is consistent with those expected from our business leaders and elected officials
91. Adopt a **workplace bargaining system in which employers and employees can freely enter into appropriate and lawful workplace agreements**, underpinned by simple safety net conditions. Employers and employees must be the two most important parts of an employment relationship. **The role of third parties should only exist where invited** and must never take precedence over the wishes of employees or employers
92. **Implement fair and simple dismissal laws that place more emphasis on the right of employers** to manage their own business, reflect community expectations and embrace the notion of 'common sense'
93. Continue to pursue **nationally consistent workplace safety laws** and increase the focus on practical safety outcomes and a safety orientated workplace culture
94. **Stop and reverse the growth in overlap between safety laws and industrial relations laws**
95. **Ensure that the concept of workplace safety is not further sullied** by prohibiting notions of 'safety' from being exploited as a tactic to achieve industrial relations outcomes
96. **Review the operation and work of Safe Work Australia** to reduce duplication with other bodies, focus operational activity and improve engagement with employers, including through the appointment of more business representatives to its board

97. Master Builders supports the **Harper Review recommendation (Recommendation 36) on the prohibition of secondary boycotts** in sections 45D-45E of the *Competition and Consumer Act (2010)* to be maintained.

- 10.1 The building and construction industry places a high priority on a safe and productive workplace relations environment. Harmonious, safe and productive workplaces are vital for a strong building industry, a thriving economy and more job opportunities for all Australians.
- 10.2 We need 300,000 more workers, independent contractors and apprentices over the next decade, however current workplace laws discourage many from hiring more workers and training more apprentices.
- 10.3 The building and construction industry is committed to delivering safe and productive workplaces for the more than one million people it employs. The personal and community cost of serious injury and death at work cannot be underestimated and must be addressed.
- 10.4 Safer and more productive workplaces can be achieved without adding to the existing level of complexity and compliance. A common sense, practical approach is needed.
- 10.5 The focus must be on the quality, rather than the quantity, of legislation and regulation. The focus must also be on education and awareness, injury prevention, and the practical and achievable management of foreseeable risk, not just paper based compliance. It's about creating a genuine 'safety culture' in the workplace.
- 10.6 To address these challenges Australia must return to a balanced and fair industrial relations system. It must be easily understood and simple.
- 10.7 The building and construction industry unions have a long history of militant and unlawful behaviour, such as unlawful strikes and other illegal activities, which disrupts workplaces, stifles productivity and adds up to 30% to the cost of building community facilities such as hospitals and schools – an impost funded by taxpayers.

- 10.8 The Australian Building and Construction Commission (ABCC) must be appropriately resourced to increase productivity, reduce disputes and delays, foster greater cooperation between workers and employers on commercial building sites and the economy in general.

### **The Importance of the Building and Construction Workplaces to Government Consideration**

- 10.9 The building and construction industry is the second largest industry in the economy and employs a workforce that totals almost 1.1 million in number. Government decisions as to workplace policy, programme, agencies and regulation are almost all likely to have a significant impact on, and implications for, workplaces in the building and construction industry.
- 10.10 As an industry experiencing a trend of positive growth, the current and future needs of the building and construction workplaces should be a central consideration to Government as it considers policy and funding matters, such as those noted elsewhere in this submission about skills and future labour requirements.
- 10.11 In terms of contemporary considerations and immediate issues, the sector is renowned for its ongoing extensive and high-profile involvement in workplace related matters. For example:
- Approximately one third of the Final Report of the Heydon Royal Commission was devoted to the building and construction sector and comprised of two distinct specific volumes. This was yet a further inquiry following the Cole Royal Commission and the Gyles Royal Commission, in addition to a significant number of other sector specific inquiries, reviews and reports.
  - Australian Bureau of Statistics (ABS) data shows a trend towards increasing levels of workplace disputation and days lost to industrial disputes. The most recent data showed the construction industry lost 14,500 days to industrial dispute in the September quarter 2016, accounting for 42% of total days lost (34,900) across all industries. Over the year-to September 2016 the number of days lost to industrial disputes in the building and construction industry has jumped by over 102 per cent.

- The predecessor to the Australian Building and Construction Commission (ABCC) known as Fair Work Building Construction (FWBC) commenced 32 new proceedings for breaches of the law involving Adverse Action (seven proceedings) Unlawful Industrial Action (six proceedings) Coercive Behaviour (fourteen proceedings) and Right of Entry (five proceedings) during 2016.
- Building and Construction industry unions have been fined a total of approximately \$1.8 million since June 2015 for breaches of industrial laws, with over 100 building union officials currently before the courts facing over 1000 separate charges.
- The sector has been identified as a 'priority industry' by Safe Work Australia given its high number and rates of injury and/or fatalities, therefore leading it to being considered hazardous by nature.

10.12 The above issues merely scratch the surface of available indicators that represent demonstrable evidence of the important relationship between workplaces in the building and construction industry and Government policy.

### **Master Builder's Workplace Policy Priorities**

10.13 The most important policy priorities maintained by Master Builders Australia are:

- Ensuring respect for the rule of law in the building and construction industry by ensuring the Australian Building and Construction Commission (ABCC) is sufficiently resourced;
- Preserve the rights of independent contractors by retaining the current laws to give people choice about how they work and encourage entrepreneurship;
- Supporting the Registered Organisations Commission (ROC) to ensure building unions are accountable to members and their officials act like everyday people;

- Adopt a workplace bargaining system in which employers and employees can freely enter into appropriate and lawful workplace agreements, underpinned by simple safety net conditions;
- Ensure all workplace laws respect that employers and employees are the two most important parts of an employment relationship. The role of third parties should only exist where necessary or invited, and must never take precedence over the wishes of employees and employers;
- Implement fair and simple dismissal laws that place more emphasis on the right of employers to manage their own business, reflect community expectations and embrace the notion of 'common sense';
- Continue to pursue nationally consistent workplace safety laws and increase the focus on practical safety outcomes where a safety-oriented workplace culture and individual responsibility takes precedence over, and is considered as more important, than paper-based compliance;
- Stop and reverse the growth in overlap between safety laws and industrial relations laws, to improve compliance, and reduce complexity and confusion;
- Ensure that the concept of workplace safety is not further sullied by prohibiting notions of 'safety' from being exploited as a tactic to achieve industrial relations outcomes.

10.14 The above priorities are canvassed in further detail hereunder in addition to other policy matters.

**Responding to the Inquiry Recommendations – the Productivity Commission’s Report into the Workplace Relations Framework (PC Review) and the Royal Commission into Trade Union Governance and Corruption (Heydon Royal Commission)**

- 10.15 Master Builders emphatically supported the initiation of these two reviews. The PC Review was handed down on 21 December 2015 and the Heydon Royal Commission final report on 30 December 2015.
- 10.16 To date, there has been no detailed Government position in response to the majority of recommendations arising from same and we would encourage Government to determine and announce a position in the interests of industry certainty.
- 10.17 This is particularly important to the BCI as both reports contained recommendations that had specific application to the sector.

### **Change to the Fair Work Act – General**

- 10.18 Master Builders has maintained a consistent and evidence based policy position with respect to necessary changes to improve the operation of the Fair Work regime.
- 10.19 To avoid repetition of those positions in detail, we set out hereunder a summary of the central elements of necessary reform.
- 10.20 **Enterprise bargaining** is stated to be ‘the heart of the workplace relations system’ introduced by the FW Act. However, based on the experience of building industry employers it has failed to properly balance the interests of employers against those of employees and unions. At the centrepiece of the FW Act’s enterprise agreement regime are the principles of ‘good faith bargaining’. Yet it is clear that protected industrial action is able to be taken prior to discussions for an enterprise agreement having taken place. This ‘strike first talk later’ position is clearly at odds with the intention of enacting ‘clear, tough rules’ about industrial action under the FW Act and significantly undermines the intended good faith bargaining regime and hampers productivity by providing an industrial weapon to militant unions such as those which operate in the building and construction industry.
- 10.21 Master Builders is also concerned about the **scope of permitted content in enterprise agreements**. This subject area affects the ability of employers under the FW Act to appropriately regulate business-to-business contracts between an employer and independent contractors, as these relations are able to be adversely affected by unions under terms set out in pattern union



enterprise agreements. This significantly impedes productivity within the building and construction industry, where the use of specialist contract labour is essential to the viability of construction projects. These trends represent significant alterations in the balance between employers, employees and unions.

- 10.22 Agreement **clauses which restrict the use of contractors and labour hire** are having a negative effect on the industry, particularly its costs. Master Builders' position is that regulation of independent contractors through enterprise agreements should be treated as an unlawful term per s194 of the FW Act. This position would ensure that costly litigation about this issue and the effective regulation of contractor terms and conditions by unions via this inappropriate mechanism were outlawed. In the building and construction industry in particular, this step would have no adverse effects on job security as the provision that is pushed by unions is effectively a measure to ensure that competitive wages and conditions cannot be introduced; job security is the guise under which unions become the gatekeepers of terms and conditions on site.
- 10.23 **Transfer of Business** rules under the FW Act are dense and difficult to apply. This particular part of the legislation has proved disappointing as it overturned the long established and well understood laws regarding transmission of business and was not contained in the Labor Party's Forward with Fairness policy framework which formed the policy basis of the legislation when first formulated. The pre-existing laws operated on the simple premise that a person could not transfer a business and thereby avoid their industrial obligations. The FW Act has expanded the reach of these laws to circumstances where it cannot reasonably be said that a business has actually been transferred. Moreover, it creates a framework that delivers absurd outcomes and which are unfair to employers and which have restricted opportunities for employees. Previous transmission of business rules, based on the actual transfer of a business, must be reinstated.
- 10.24 The **unfair dismissal laws** under the FW Act have failed to deliver a fair outcome for employers. There is growing anecdotal evidence that the objectives of the FW Act in relation to unfair dismissals remain purely aspirational, and the needs of business are not being met. The procedures for dealing with unfair dismissal are neither quick, nor flexible, nor informal.

Compliance is not easy for business. Employers are forced to spend time and money defending often speculative claims, with the vast majority being resolved through commercial settlements. It remains a jurisdiction of “go away” money, where reinstatement remains impracticable.

10.25 The FW Act has failed to provide fundamental protection for **small business employers**, with the legislative balance clearly favouring employees. The lack of such protection is damaging Australia’s resilience in the face of the uncertainty and instability in local and international economies.

10.26 The small business exemption from unfair dismissal that currently exists is unlike earlier versions, which gave a complete exemption by eliminating any unfair dismissal remedy under the relevant legislation for any employees of the small business. The difference is very significant as the current exemption law still exposes the small business to the high standards of procedural and substantive requirements. After the first 12 months of service of an employee, a dismissal by a small business employer can be challenged on both substantive fairness and procedural grounds. The consequences can be long mediation and FWC procedures with uncertain outcomes, especially with regard to compensation. The dismissal might be declared invalid by the FWC and create uncertainties, particularly if reinstatement is ordered. This is unreasonable. The additional costs and resources expended by a typical small business to introduce advanced employee management systems and to contest potential claims of unfair dismissal have been acknowledged by every Government since 1982. Notwithstanding this prior consideration the current termination laws are the least supportive of small business in 35 years.

10.27 Master Builders supports the reintroduction of a true ‘exemption’, where a remedy for alleged unfair dismissal is unavailable to employees of small business. The law must also be recalibrated so as to place more emphasis on the **employer’s prerogative to manage** their business. Laws defining a valid reason for **redundancy** should be confined to termination for reasons based on the operational requirements of the employer’s business.

10.28 Master Builders considers that the **adverse action** provisions of the FW Act should be abolished. Alternatively, if they are to be retained, they must be rebalanced in order to avoid potential scope for abuse. At the least, the ‘sole or dominant reason’ test should be reinstated.

- 10.29 There has been a significant widening of both “workplace rights” and “lawful industrial activities” under the FW Act compared to earlier federal workplace relations laws. Master Builders considers that the adverse action provisions of the FW Act provide an unnecessary layer of additional and excessive remedies to employees, who are already protected from unlawful or unfair termination and discrimination under other laws.
- 10.30 The **reverse onus of proof** and the removal of the “sole or dominant reason” exemption raise significant issues for employers. Add to this uncapped compensation available in adverse action remedies, as well as none of the unfair dismissal jurisdictional exemptions, the employee’s preference towards bringing adverse action claims in the Federal Court rather than unfair dismissal applications in the FWC is obvious. This trend significantly compromises the positive policy outcomes in having a workplace relations tribunal with an emphasis on being quick, informal and avoiding unnecessary technicality.
- 10.31 Laws regulating **industrial action** must balance the rights of employees to seek improved terms and conditions with the importance of acting lawfully, in good faith. At the same time productivity must be maximised. The FW Act does not deliver the correct balance. The FW Act should be amended to make it clear that parties must be acting in good faith in order to take protected industrial action.
- 10.32 Protected action ballot orders must consider **pattern bargaining**. Pattern bargaining has been a blight on the building and construction industry, a drag on productivity and detracts from value-for-money in Government and private procurement. Pattern bargaining leads to poor outcomes for all concerned, particularly in relation to the loss of value-for-money in public works. The results of pattern bargaining have been detrimental to both workers and employers, to the industry and to the national economy.
- 10.33 The FW Act does not contain a requirement that a party must satisfy the Commission that it is not pattern bargaining before applying for a protected action ballot. This, combined with the absence of any constraints relating to good faith bargaining, have permitted the re-establishment of ‘take it or else’ agreement making.

- 10.34 **Right of entry (RoE)** provisions under the FW Act urgently need attention. There is ample evidence to suggest that the current obligations concerning RoE rules are being abused, and there is no recourse against union officials who intentionally fail to renew entry permits. A number of CFMEU officials have, for some time, adopted the practice of letting their permits lapse to avoid action being taken against them. Contractors are then faced with the escalation of a dispute which invariably requires police involvement to remove union officials on the grounds of trespass.
- 10.35 The current laws are also failing the industry because union officials are provided with a discretion to either show, or not show, their federal permit. The law must be amended to mandate the production of entry permits if union officials wish to exercise legitimate right of entry privileges.
- 10.36 If RoE abuses are to be adequately addressed in the building and construction industry, real, substantial and certain penalties must apply. Union officials should know that if they abuse the rights and privileges attaching to a permit, their permit will be suspended for a minimum known period or revoked entirely.
- 10.37 The subject of **sham contracting** is an important matter to the sector. A sham contract arrangement arises when an employer deliberately treats an employee as an independent contractor or coerces employees into signing contracts that represent them as being contractors rather than employees. This is currently proscribed in s357 to s359 FW Act. Master Builders stresses that this behaviour is a deliberate act by those who choose to act illegitimately. It is a practice we condemn. It should not, however, be confused with misclassifying an employee as a contractor, a mistake that may often be made because of the dense and confusing law that governs this distinction, inclusive of a multitude of statutory deeming provisions.
- 10.38 The attempts to paint sham contracting as something different to the deliberate manipulation of the law promotes a range of other agendas. Firstly, it assumes that sham contracting is an endemic problem in the building and construction industry or other industries. This is not the case. Secondly, it enables unions where members are employees rather than a contractor to discourage the formation of independent businesses as a means to boost membership.

- 10.39 Much of the agenda of those who seek to oppose the current law is based upon making misclassification akin to sham contracting. This is lamentable given the state of the complex law which distinguishes between whether a worker is an employee or a contractor. Employers can already suffer very problematic financial burdens following misclassification if they are then asked to reverse the status of a worker. Adverse cost consequence should not be added to by labelling misclassification an offence. The current provisions in the law should not be changed.

### **The Fair Work Commission (FWC)**

- 10.40 In accordance with s.156 of the Fair Work Act, the FWC is required to conduct a **4 yearly review of modern awards**. Master Builders is heavily engaged in the review, with an interest in both the *Building and Construction General On-Site Award 2010* and the *Joinery and Building Trades Award 2010* (Construction Awards). We are also a party to a number of 'common issue' award matters relevant to the building and construction industry.
- 10.41 The FWC devotes a substantial amount of resources to the 4 yearly review process, which also poses a significant drain and unreasonable burden on the parties required to participate in the various review proceedings.
- 10.42 The review process is flawed on a number of additional levels which was highlighted in the PC's report into the Workplace Relations framework. First, although the current review commenced in 2014, the FWC has yet to conduct any substantive hearings (let alone hand down a decision) in the Construction Award matters. Second, the process also requires the giving of evidence, which in our sector can be difficult to garner in light of the reluctance of third parties to make statements for fear of reprisals from unions. Third, the position of the parties to the review process is often polarising giving rise to an adversarial process that does little to genuinely address gaps or anomalies within modern awards.
- 10.43 Master Builders is of the view that the **4 yearly review should be abolished and replaced with a regime that provides for parties to make applications to have specific provisions within modern awards reviewed on a merit basis** as the need arises. This would significantly reduce the amount of

resources, both on the part of the parties and the FWC, required to facilitate the 4 yearly review process.

- 10.44 Master Builders also has great concerns about the FWC's **processes associated with the approval of enterprise agreements**. Currently when an agreement is lodged for approval it is uploaded to the FWC's website where any visitor to the relevant page can view the document in its draft form. This process provides union non-parties to enterprise agreements with the opportunity to frustrate the approval process if they so desire, for example if the proposed agreement is inconsistent with a 'union pattern agreement', even if the proposed agreement does not cover a union member.
- 10.45 This practice has an adverse effect on employers, particularly small to medium sized businesses that make up the overwhelming majority of Master Builders' membership. Unwarranted interventions by unions to the approval process has had the effect of causing significant delays in agreements being approved and in some cases significant costs to employers who are then forced to engage representatives to represent their interests.

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

- 10.46 Master Builders welcomed the re-establishment of the ABCC as a specific industrial relations regulator for the building and construction industry. The ABCC worked when it previously existed and the sector has confidence that it will do so again. 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.
- 10.47 The ABCC is expected 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 to the benefit of the community generally.

- 10.48 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.
- 10.49 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.
- 10.50 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;
  - involvement in a proposed security of payment working group (in which Master Builders seeks to be formally engaged);
  - greater regard to matters involving the Australian Competition Law; and
  - taking a more active role in terms of sector work health and safety.
- 10.51 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.
- 10.52 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.
- 10.53 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.

- 10.54 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.
- 10.55 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 to enforce the laws that are determined by other jurisdictions.
- 10.56 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.
- 10.57 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 law 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.
- 10.58 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 allocations 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.
- 10.59 Master Builders also takes the view that there ought to be a number of changes to the legislation relating to the ABCC and underpinning its operation. In short,



Master Builders, as a matter of principle, supported the ABCC legislation in the form as originally introduced and it should be restored to that form.

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

10.60 Master Builders notes that SWA has undergone a recent review recommendations arising therefrom have been put in place. 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 other 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.

10.61 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.

10.62 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.

10.63 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)**

10.64 Master Builders supports the policy outcomes pursued by WGEA. However, 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.

10.65 Regrettably, some employers hold the view that there is little useful information 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.

10.66 In addition, the WGEA website (as at 10 January 2017) 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)**

- 10.67 Master Builders notes that the Government has decided to not proceed with a previously announced initiative to align payments available under the Fair Entitlements Guarantee 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.
- 10.68 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.
- 10.69 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.
- 10.70 Master Builders support recent MYEFO announcements to increase recovery efforts to increase FEG scheme efficiency.

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

- 10.71 Master Builders is a member of the building, construction and demolition sector committee of ASEA. Master Builders supports the work of the agency and its National Strategic Plan and recognises the importance of the safe removal and remediation of asbestos where appropriate. 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.

#### **Heydon Royal Commission – Related Matters**

- 10.72 Master Builders welcomed the MYEFO announcement of additional resources for agencies involved with, and related to, the Heydon Royal Commission.
- 10.73 We particularly note the additional resources for the Australian Federal Police, the Australian Competition and Consumer Commission and the Registered Organisations Commission. Given the nature of matters and the complexity of

issues dealt with by the Heydon Royal Commission, it is important that law enforcement and other regulatory agencies involved in any matters arising from the Heydon Royal Commission have the necessary expertise, knowledge and experience to appropriately investigate and enforce the law.

- 10.74 Master Builders would support additional resources being provided to the AFP on a recurrent basis to ensure that the work of its taskforce can continue and that it be established as a permanent entity. To that end, we would seek that at least \$2m per year or \$8m over the forward estimates be provided to the AFP for a specialist taskforce. To offset such additional expenditure to the AFP, the Government may consider diverting resourcing provided to the FWO. Given the increased duties and responsibilities of the ABCC are now such that it covers 10% of the country's workforce, the FWO resourcing budget may be commensurately reduced and diverted elsewhere within the Portfolio.

### **Workplace Health and Safety (WHS)**

- 10.75 Master Builders supports the Government's policy of reducing red tape in WHS through working cooperatively with state and territory Governments to develop harmonised WHS legislation. Master Builders' policy position is that quality, rather than quantity, in WHS regulation will assist to improve the performance of the sector and that this will require adequate Government resources being made available especially given the diversity of commencement dates and individual State and Territory differences, even in the context of the harmonised WHS framework.
- 10.76 Master Builders emphasises the point that greater levels and more strict WHS duties do not of themselves improve WHS performance. To be effective, WHS regulation must also focus on education and awareness, injury prevention and the practical and achievable management of foreseeable risks. Master Builders is committed to improving WHS performance in the building and construction industry, including bringing about cultural change. Harmonisation of WHS has the potential to be an important catalyst for further improvements in performance both in the building and construction industry and more broadly, provided that sufficient emphasis is given to these aspects of WHS regulation, a matter drowned in the current rush of new regulation, especially Codes of Practice.

- 10.77 The Government should extend efforts to encourage those remaining states who have not adopted the Model legislation to do so. In addition, those states that have adopted model laws should be monitored to ensure that changes made to them at an individual jurisdictional level only occur where absolutely necessary so as to ensure the benefit of a harmonised regime is not undermined.

### **The Abuse of Safety for Industrial Purposes**

- 10.78 Workplace health and safety requires the active participation of all parties, which is reflected in the model Work Health & Safety laws' emphasis on coordination, cooperation and consultation. At least three Royal Commissions have confirmed the regrettable and long standing practice of construction unions using safety stoppages as a device to advance industrial objectives, as it is relatively easy to mask industrial issues given the ever changing nature of hazards on construction sites. The abuse of safety frustrates cooperation, devalues the importance and the role of safety and by doing so can expose workers at the site to needless risks to their health and safety.
- 10.79 To combat the abhorrent, tactical use of safety as an industrial weapon the previous *Building and Construction Industry Improvement Act 2005* (BCII Act) placed the burden of proving that a safety stoppage was based on a reasonable concern by the employees about an imminent risk to their health or safety. The *Fair Work (Building Industry) Act 2012* (FWBI Act) reversed this position, placing important advances in safety management and practices in jeopardy.
- 10.80 While a more appropriate successor to the initial BCII Act sought to restore its initial position, amendments made during its passage saw the status quo preserved. The situation must be restored to that as originally proposed.

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

- 10.81 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. Master Builders previously called for a comprehensive, independent review of the accreditation scheme and welcomed the Governments adoption of this position.

- 10.82 Master Builders submits that improvements arising from the review about the operation and effectiveness of the Accreditation Scheme will benefit both regulators and the industry. Notwithstanding this, 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.

### **Employment Support Programmes**

- 10.83 The extent to which the building and construction industry utilises various programmes employment support programmes is not commensurate with the size of its labour force. Master Builders acknowledges improvements arising from the implementation of the JobActive network however the nature of the sector and the associated workforce skill requirements is such that the majority of its labour force is drawn from other sources. Further, programmes such as the Youth Employment Package and the jobs PaTH Program, while having significant merit, have little application to employers in this sector due mainly to restrictions contained in Modern Awards. Master Builders has brought proceedings before the Fair Work Commission to remove these barriers to youth employment.

- 10.84 Master Builders would recommend that the Government assess the JobActive network with a view to improving its relationship to other agencies and workplace related program providers such as the Australian Apprenticeship Support Network, vocational education providers, and related programmes. There exists scope for greater coordination between those entities so as to reduce complexity for employers, young people and their parents so as to make a career in the building and construction industry (and/or a trade career generally) more attractive to young people and easier for parents and their advisers to navigate.

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

- 10.85 Master Builders welcomed the passage of legislation to create a Registered Organisations Commission. 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.

- 10.86 Master Builders was one of a handful of organisations that publicly supported the ROC when first announced as policy and remains perplexed as to the positions adopted by other similar groups. Increased transparency and accountability are concepts that ought to be embraced without question.
- 10.87 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.

### **Secondary Boycotts**

- 10.1 Master Builders supports the Harper Review recommendation (Recommendation 36) on the prohibition of secondary boycotts in sections 45D-45E of the Competition and Consumer Act (2010) to be maintained.
- 10.2 Master Builders believes that public enforcement of the secondary boycott provisions is inadequate, a point emphasised in the Interim Report of the Royal Commission into Trade Union Governance and Corruption. Timely and effective public enforcement serves as a deterrent to boycott activity and needs to exist both in regulatory culture and capability. Master Builders supports the recommendation for the ACCC to pursue secondary boycott cases with increased vigour, although as an interim measure.
- 10.3 We submit that following a 12 month period, informed by the increased availability of data about actions taken in this area compared with complaints made, Government will be able to assess whether the required increase in vigour has become manifest. If not, further reform options should be considered
- 10.4 Master Builders supports the recommendation for the maximum penalty level for secondary boycotts to be the same as that applying to other breaches of the competition law.

## **Conclusion**

- 10.5 The building and construction industry and the community would benefit from comprehensive workplace relations reform. Legislating the Master Builders' recommendations and adopting other changes to agency resourcing and function would be a vital step on the path to increased productivity.



## 11 Workforce Skills

*Greater investment in vocational education will give young people the skills they'll need for the future*

### Policy Recommendations:

98. Targeted measures to **assist and encourage employers to take on more apprentices** and to increase the completion rates of building trades apprenticeships, including the return of, and increases to previously available incentive programs
99. **Targeted pre-apprenticeship programs** that support site-ready and productive apprentices to boost business productivity and improve safety in the workplace
100. Significantly boost **financial assistance to building and construction industry employers who invest in the training and mentoring** of young people while completing their apprenticeships.
101. Greater support for industry led programs to **increase female participation in the building and construction industry**
102. **Improved investment in VET** to give young people access to publicly funded industry-focussed training upon completing year 12
103. **Review the national VET training system** to remove current complexities, increase business and parent understanding, and implement consistent funding models
104. **Provide industry with a greater role in determining quality training outcomes from RTOs** by allowing industry to provide feedback on their performance
105. Better support for **mentoring programs** that are proven to increase apprenticeship completions
106. More support for **partnership programs between VET and tertiary education providers**, specifically to develop pathways between construction trades and engineering and construction management higher education degrees

11.1 Master Builders Australia seeks a vocational education and training system that meets the needs of the building and construction industry. The industry is one of the key growth sectors of the economy, which is being constrained by shortages of skilled labour.

11.2 The building and construction industry employs approximately 1.1 million Australians, which represents around 9 per cent of total employment. The industry is the largest employer of skilled tradespeople in the Australian economy with approximately two thirds of the workforce employed in skilled roles.

- 11.3 Master Builders projects that the building and construction industry will require an additional 300,000 people over the next decade, a 30 per cent increase on the current workforce.
- 11.4 Master Builders' policy priorities for training are set out in our Towards 2020: Policy for Australian Apprenticeship Reforms and include three main themes:
- Training our workforce
  - Quality vocational training structures
  - Attracting our future workforce
- 11.5 Achieving improvements in 'training our workforce' is essential to supporting growth in the Australian economy.
- 11.6 The current apprenticeship system is in need of a major review to address how more young people can be attracted to work in the trades, how employers can be supported to take young people on, and how the training system can deliver flexible and effective skills for the future.
- 11.7 Master Builders recommends the Federal Government maintain 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.
- 11.8 Master Builders seeks new investment in building and construction training to support the 60,000 new entrants that will be required each year to meet the projected employment growth of 300,000 people over the next decade and to replace some 30,000 workers who leave the industry through attrition each year. Master Builders recommends an Australian Construction Industry Training Fund be established, which is industry led, to drive quality training outcomes for the industry. Master Builders recommends that an Australian Construction Industry Training Fund be established with a budget of \$60 million over three years to support construction industry training. The Fund would provide subsidies to RTOs and industry to support training new entrants and to upskill existing workers, set construction training delivery benchmarks and assess RTOs against these benchmarks to drive an industry-centred quality regime, and work to harmonise construction training and outcomes nationally.

The Fund would improve transparency to consumers on the training being offered and delivered by RTOs through a ratings system.

- 11.9 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. Master Builders seeks reforms that can deliver effective assistance to employers and apprentices and harmonise training and apprenticeship regulation within Australia.
- 11.10 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 subsidies. Master Builders recommends a review of policies with the aim to support GTOs to undertake their very important role in developing apprentices for the construction industry and a corresponding review of the subsidies available to GTOs to undertake the important work they undertake in employing many young apprentices.
- 11.11 The basic employer incentive for taking on and retaining adult apprentices has been static at around \$4,000 for many years, which represents a only small percentage of the net cost of on-the-job training, administration and wages. Employer incentive payments are even more an imperative against the background of increasing wages and conditions being imposed as a consequence of industrial relations decisions such as competency based wage progression.
- 11.12 In the short term, limited and tightly targeted financial assistance to employers should be the most appropriate policy response to dealing with a looming skills crisis. Assistance could have the following key elements:
- Re-phasing the standard employer incentive (\$1,500 at commencement and \$2,500 at completion) to \$1,500 at commencement, \$1,500 at 18 months and \$1,000 at completion, in recognition that apprentices who make it through to third year are more likely to complete their studies. Further, as the payment has been static for many years, a 15% increase over the next three years should be considered to support employers to ultimately lift apprenticeships; and,
  - Introduce a 'sign-on' bonus of \$3350 on top of the standard employer incentive for construction trades in demand to support employers to employ apprentices

to help meet the need for an additional 300,000 skilled workers over the coming decade.

- 11.13 Achieving improvements in ‘quality vocational training structures’ is essential to supporting growth in the Australian economy.
- 11.14 Master Builders recommends an implementation of a quality VET system with an increased focus on skills attainment outcomes. The Australian Skills Quality Authority (ASQA) should work more closely with industry to identify and respond to instances of poor practice, without increasing the red tape and cost burden on all providers. Auditors should have experience in the construction industry when auditing construction courses. Master Builders seeks an independent ratings system for RTOs that can provide advice to consumers on the quality of delivery for each RTO. The proposed Australian Construction Training Fund could play a significant role in achieving enhanced VET outcomes.
- 11.15 Master Builders seeks ongoing reforms that will improve the vocational education and training system, particularly in ensuring industry’s confidence in the quality of training delivery and in the qualifications being issued, which will elevate trades to the centre of the economy and focus on ensuring Australian workers are highly skilled and job ready.
- 11.16 Achieving improvements in ‘attracting our future workforce’ is essential to supporting growth in the Australian economy.
- 11.17 Master Builders recommends that the Government considers an investment into promoting 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. Master Builders recommends that the Government considers a \$5 million investment over three years 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.

- 11.18 In relation to higher education, Master Builders National Survey has revealed persistent difficulty in filling highly skilled professional positions in the industry across all stages of the economic cycle. This challenge is likely to worsen, as growth in demand for highly skilled roles will far exceed demand for other roles in coming years.
- 11.19 Master Builders recommends the Federal Government work with industry and education providers to implement a multi-faceted approach to enlarging the pipeline of engineers and construction professionals. Such an approach would promote increased interest in engineering and construction management among school leavers, facilitate closer industry linkages to undergraduate programs, and enhance career development opportunities for early career graduates.

## 12 Infrastructure

*Australia needs more infrastructure to improve our economic productivity and the liveability of our communities in regional areas and cities*

### Policy Recommendations:

107. Increase private sector investment in infrastructure, **with a target of 6 per cent of GDP for public infrastructure investment across all levels of government.**
108. Expand the use of privatisation models. **Revenue from the sale of existing infrastructure assets should be used to fund the development of new infrastructure.**
109. **Developing and marketing** tradable public infrastructure bonds **on terms of trade and conditions which appeal to a broader spectrum of investors.**
110. **Redirection of government outlays away from recurrent and less productive spending, toward** investment in efficiency and competitiveness enhancing infrastructure.
111. Better policy coordination among the levels of government. **The Federal Government should lead a plan, through COAG, to address Australia's growing infrastructure needs.**
112. **Minimising bid costs for infrastructure supply and financing to ensure the broadest possible range of engagement by potential investors.** Tendering processes for smaller investors should be simplified.
113. Reducing the political risk associated with investment in infrastructure. **This would involve focusing on 'stop-start' government decision making, and the tendency for the constant changing of processes, rules and other key elements of a project once underway.**
114. Master Builders supports measures outlined under **Recommendation 9 of the Harper Review.** *"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."*
115. 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 – **Recommendation 18 of the Harper Review (2015)**

## Infrastructure Investment

- 12.1 Master Builders welcomes the commitment by Government to promote private sector infrastructure investment through its \$50 billion infrastructure package.
- 12.2 However, Master Builders does not support the removal of around \$600 million in funding for the Asset Recycling Initiative at a time when Australia is facing an infrastructure shortfall of over \$700 billion.
- 12.3 The Federal Government's reforms to the governance of Infrastructure Australia will create a more independent and transparent body, better able to develop a national view on infrastructure and to derive better value for money in relation to spending on projects of national economic significance.
- 12.4 A high-quality infrastructure base is vital to Australia's productivity, international competitiveness and sustained economic growth and development. A lack or shortfall in adequate infrastructure is a risk to Australia's future economic growth and productivity.
- 12.5 Australia faces a major infrastructure challenge over coming decades, both in the maintenance and the remediation of existing infrastructure assets, and investing strategically in expanding our infrastructure base. This is particularly the case in our major capital and regional cities and towns.
- 12.6 This 'infrastructure challenge' could amount to around \$30 billion annually for the decade to 2020, with financial institutions estimating it could cost between \$600 billion and \$770 billion to deal with existing infrastructure gaps alone.
- 12.7 The public sector has for many years failed to adequately finance Australia's core infrastructure needs and appears even less likely to be able to do so in the future, pointing toward an even greater role for the private sector in infrastructure supply. Public sector spending on infrastructure, at around 3 to 4 per cent of gross domestic product (GDP), has been inadequate to supply key economic and social infrastructure, and should be lifted progressively to at least 6 per cent of GDP by 2020.
- 12.8 All levels of Government need to:

- redirect spending from recurrent and less productive expenditures, toward investing in efficiency and competitiveness enhancing infrastructure
- improve policy co-ordination within, and across, the various tiers of Government, with the COAG taking the lead in developing an integrated plan for Australia's economic and social infrastructure needs; and
- remove impediments, such as unfavourable capital-raising, regulatory, taxation regimes, to greater private sector investment in infrastructure.

12.9 Master Builders calls for a broader and deeper role for the private sector in infrastructure supply in Australia. However 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 of the public sector.

12.10 The private sector can contribute to closing Australia's existing and prospective infrastructure deficits by:

- more efficient provision of current infrastructure through, for example, the privatisation of existing infrastructure assets.
- supplying, whether in the form of construction, operation and maintenance, appropriate infrastructure, in particular of an economic nature, beyond that provided by the public sector alone (known as 'additionality').

12.11 Master Builders calls for greater engagement by superannuation institutions in financing 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).

12.12 While Master Builders shares the wider business concern at the inadequacy of our national infrastructure base, we remain firmly of the view 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.

12.13 Against this background, Master Builders would oppose mandatory requirements for superannuation institutions to invest (or not invest) in any particular asset classes or products. Rather, Master Builders considers infrastructure to be one of a range of potentially suitable asset classes which a diversified superannuation fund could constructively consider for allocating some part of its investment profile.

12.14 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, and in identifying and then remedying regulatory and other Government-sourced barriers to the effective operation of the infrastructure supply market;
- developing institutional structures that promote efficient infrastructure investment decisions; and, the
- 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).

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

- increasing the direct public sector spending on key 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 associated with investment in infrastructure, in particular 'start-stop' decision-making, and changing the processes, rules or other key elements of a project once underway;
- expanding the use of privatisation or other mechanisms for the transfer of existing and prospective infrastructure assets to the private sector, including 'capital recycling' (using revenue from the sale of existing infrastructure assets to fund the development of new infrastructure); and,
- developing and marketing, as appropriate, public infrastructure bonds as tradeable financial instruments on terms and conditions which appeal to a broad spectrum of investors.

12.16 Key elements of the policy which are properly the function of the private sector include steps by:

- financial institutions and other investors to broaden and deepen their capacity to evaluate the absolute and the relative merits of infrastructure as an asset class, and specific infrastructure projects as investment vehicles within a diversified investment/lending portfolio.
- financial institutions and other investors to obtain better information on opportunities for investing in infrastructure, either on their own, through relevant industry or professional associations, and in conjunction with counter-parties in the infrastructure supply chain.

12.17 The financial sector more broadly, including the investor community and infrastructure providers, to create tradeable financial instruments, such as private infrastructure bonds, which could be used to finance infrastructure projects in denominations which appeal to a broader range of investors (in particular, smaller investors).

## Cities Policy

- 12.18 Master Builders supports the Federal Government's Smart Cities Policy, to make our cities more liveable, more productive, and more prosperous.
- 12.19 The essential principle underlying any robust and sustainable 'cities policy' (which must interface seamlessly with 'regional policy') must involve allowing key markets to work better, promoting more market-responsive decision-making, and facilitating equality of opportunity, rather than prescribing rigid interventions and/or given outcomes which favour those who live and work in cities over those who choose to live and work elsewhere.
- 12.20 As part of the Governments 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.
- 12.21 Master Builders also supports the establishment of the Commonwealth governments \$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.
- 12.22 Master Builders also supports the proposal for a record investment of \$50 billion between 2013-14 and 2019-20 on road and rail projects across Australia: reducing congestion, improving the liveability of cities and connecting our regions to markets.

## Planning and Zoning

- 12.23 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 tests (as outlined under Recommendation 8 of the Harper Review (2015)).
- 12.24 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.”

12.25 The following competition policy considerations should be taken into account:

- *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.*

12.26 Planning regulations should work in the long-term interests of consumers. They should not restrict competition unless the benefits of the restriction to the community as a whole outweigh the costs, and the objectives of the regulations can only be achieved by restricting competition.

12.27 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. Even small policy improvements in this area could yield large benefits to the economy.

12.28 Master Builders supports the formation of an independent body such as the Australian Council for Competition Policy (APCC) as outlined under Recommendation 43 of the Harper Review (2015), and is responsible primarily

for reporting on the progress of State and Territory Governments in assessing planning and zoning rules against the public interest test. Master Builders supports recommendations, including:

- *A mandate to provide leadership and drive implementation of the evolving competition policy agenda.*
- *The ACCP should be established under legislation by one State and then by application in all other States and Territories and at the Commonwealth level. It should be funded jointly by the Australian Government and the States and Territories.*
- *The ACCP should have a five member board, consisting of two members nominated by state and territory Treasurers and two members selected by the Australian Government Treasurer, plus a Chair. Nomination of the Chair should rotate between the Australian Government and the States and Territories combined. The Chair should be appointed on a full time basis and other members on a part time basis.*

### **Government Procurement**

12.29 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.

12.30 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.

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

## 13 Immigration

### Policy Recommendations:

116. Setting the **permanent migration intake at between 200,000 and 240,000 per year**, with a focus on skilled migration
117. **Review the 'highly skilled' threshold within employer-nominated visa classes** to reduce ongoing skills shortage in 'middle and semi-skilled' occupations and resulting project bottlenecks
118. **The '457 visa' program should remain uncapped** and responsive to the nation's skills needs with the migration program filled by people who have previously held a temporary visa in Australia. **Labour market testing should also be removed.**

- 13.1 Master Builder's overarching policy principle is to support a strong migration program, particularly for economic and skilled migration. However, in doing so we are strongly committed, first and foremost, to the training and upskilling of Australians and to supporting local employment.
- 13.2 A well-managed and -targeted immigration program is an important policy lever which brings a range of social and economic benefits to Australia. It adds to the supply of skilled labour, increases accumulated savings and contributes to domestic investment and expanded domestic consumption. Immigration also brings indirect benefits by increasing innovation and connectedness with the rest of the world, and by promoting a vibrant, cosmopolitan and outward-looking Australian culture that is better equipped to meet the challenges of the future.
- 13.3 The cyclical nature and periods of high levels of investment and activity in the building and construction industry means employers often need to supplement the local labour force with skilled migrants.
- 13.4 In this context, the building and construction industry continues to face serious labour force challenges, relating both to an expected increased demand for managerial, skilled and unskilled labour and to replacing the exiting and/or retirement of a sizeable number of skilled workers over the next decade.
- 13.5 Master Builders estimates, based on current industry labour force attrition rates and growth projections, around 60,000 entrants to the industry will be required each year, on average, over the next decade with around two-thirds (or some 40,000 people) of this demand being for skilled positions. These figures

compare with construction trades apprenticeship commencements of 23,900 in 2015, where generally some 65% will not complete their full qualification.

- 13.6 Managing the immigration program to achieve an optimal flow of migrants will help maximise the economic and social benefits they offer and contribute to ensuring Australia's longer-term social and economic needs are met.
- 13.7 Master Builders recommends the Federal Government pursue an annum Net Overseas Migration (NOM) program intake of between 200,000 and 240,000 persons. This figure reflects our commitment to a 'bigger Australia' and increasing skills pressures across a number of sectors of the Australian economy, and in the building and construction industry in particular.
- 13.8 At the same time, a targeted skilled migration program is needed to ensure Australia's economic and productivity potential is realised. Against this background, at least two thirds of Australia's permanent migrants enter through the Skill stream.
- 13.9 In addition to helping to address skills shortages, the program intake must take into account the changing skill needs of the labour market.
- 13.10 Due to the project nature of work in the construction industry, the migration program intake needs to help business and industry meet labour requirements during peak periods of employment, where skill shortages can become a significant barrier to successfully completing construction projects.
- 13.11 Against this background, the '457 visa' program should remain uncapped and responsive to the nation's skills needs with the migration program filled by people who have previously held a temporary visa in Australia.
- 13.12 Master Builders believes labour market testing for 457 visas is unnecessary and should be removed. This position is echoed by the OECD, which has previously pointed out that employer-conducted labour market testing is not "fully reliable", and in the Australian context has proven ineffective.
- 13.13 The Federal Government should also enhance access of certain occupations, currently classified as 'semi-skilled' for the purposes of permanent employer-sponsored migration which could best be achieved by including priority semi-skilled on the Employer Nominated Skilled Occupation List on a case-by-case basis; and apply a functional English standard for skilled migrants, consistent



with the ability to read and understand workplace instructions and safety standards.