

AUSTRALIAN CAPITAL TERRITORY



PUBLISHED BY

Master Builders Australia
Level 1, 16 Bentham St
(PO Box 7170)
YARRALUMLA ACT 2600
ABN 70 134 221 001
Tel: 02 6202 8888
Fax: 02 6206 8877

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MASTER BUILDERS AUSTRALIA

CEO UPDATE

14 April 2015

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Message from the CEO

Harper Echoes Master Builders Call for Competition Policy Reform

Master Builders has welcomed the recommendations made in the Final Report of the Harper Review of competition policy. Master Builders put forward a comprehensive list of reforms in its submission to the Review.

The Review's Final Report closely align with reforms to competition law in relation to secondary boycotts and housing affordability called for by Master Builders.

The Review recognised the heavy drag on the industry's productivity and competitiveness imposed by union secondary boycotts and have echoed Master Builders call for the ACCC to be more vigorous in enforcing competition laws in this area.

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Also recognised is the importance of including the economic damage of building union thuggery to be treated the same as other breaches of competition laws. In line with Master Builders' advocacy, the Report recommends to the Government that secondary boycotts be punished with higher penalties ranging from \$750,000 to \$10 million.

Uncompetitive clauses in EBAs, such as restrictions on the use of contractors, should also be brought under aegis of competition law according to the Review.

Master Builders called for key policies in our housing affordability agenda to be taken up by the Harper Review. In its recommendations the Review supports the greater use of national competition payments to encourage cuts in over-regulation, greater efficiency by state and local government in planning and approvals processes and less onerous cost imposts such as infrastructure levies.

Master Builders' submission to the Government will strongly support the Harper Review's proposed reforms to these areas of competition policy and will call for their implementation.

Wilhelm Harnisch

Chief Executive Officer

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Legal and Contracts

Government to Move on Unfair Contracts Legislation Extension to Small Business

Master Builders recently had discussions with Treasury about the progress of the unfair contract terms legislation being extended to small business and will engage directly with the Minister on 17 April 2015. This lobbying follows on from a media release from the Minister indicating that the next step of legislating the Government's policy will proceed: <http://bfb.ministers.treasury.gov.au/media-release/031-2015/>. Treasury has informed Master Builders that the exposure draft legislation for comment will be released late April/early May. Master Builders has argued that the current law relating to unfair contracts should not apply to domestic building contracts where obligations of disclosure and mandated contractual provisions already give consumers adequate protection. Master Builders has submitted to the Government that the proposed extension of the law to small business and the current law relating to unfair contract terms should be restricted to contracts where they are offered solely on a "take it or leave it" basis.

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Sourcing safe products under the Australian Consumer Law

Members who supply consumer goods in Australia are legally responsible for how safe they are. The ACCC is holding a free, interactive webinar to help suppliers find out how to buy and sell safely: 'Sourcing safe products under the Australian Consumer Law' will be on Tuesday 12 May 2015 at 12:00–1:00pm AEST and feature ACCC and industry experts. [Register now for the webinar](#) or find out more about sourcing safe products on the [Product Safety Australia website](#).

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Competition Policy Review – Procurement

As set out earlier in this CEO Update, on 31 March 2015, the Government released the Harper Panel's Final Report on Australian competition law and policy. The [report](#) contains a number of excellent reform proposals, particularly in the area of industrial relations (see separate item) where Master Builders' policy principles have been adopted. In addition, the Panel has recommended a shake-up in Government procurement. The Panel notes that tendering with a focus on outcomes, rather than outputs, and trials of less prescriptive tender documents could encourage bidders to suggest new and innovative methods for achieving government's desired result. Competition principles, particularly those promoting choice and a diversity of providers, should be incorporated into procurement, commissioning, PPP and privatisation policies and practices. Procurement and privatisation policies and practices should also be subject to a public interest test, such that 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.

The Government has sought submissions on the Final Report by 26 May 2015, particularly on amendments to legislation and issues concerning small business, and expects to publish its response to the Final Report in the second half of 2015.

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Richard Calver, National Director Industrial Relations and Legal Counsel,
rcalver@masterbuilders.com.au

Workplace Relations

Annual Wage Review Now Underway

Each year Master Builders provides input to the ACCI submission to the Fair Work Commission (FWC) on the annual wage review. Given current economic conditions, including continued softening of the labour market, it is recommended that the FWC adopt a cautious and constrained approach to the 2014-2015 Annual Wage Review and award an increase **no greater than \$5.70 per week**. Any increase should be applied as a fixed dollar amount rather than as a percentage.

The rationale for this position is based on the following factors:

- The softening labour market conditions have impacted low-paid, low-skilled workers most significantly and we have seen our youth unemployment rate reach unsustainably high levels (currently 13.9%).
- The minimum wage function must not exacerbate the risk of unemployment for those most vulnerable in the labour market.
- Australia is continuing to experience softening labour market conditions with employment growth slowing and the unemployment rate of 6.3 per cent expected to rise further.
- Wage growth across the economy is at record low showing that employers don't have the capacity to pay large increases. This is consistent with the weak labour market conditions.
- Census data shows that small business employers in the most award reliant industries have, on average, lower income than the people they employ.
- Inflation was just 1.7 per cent compared to last year's minimum wage increase of 3 per cent.

The ACTU is calling for a \$27 increase in the minimum wage to \$667.90 per week or \$17.58 per hour plus 10 percent superannuation for some classes of worker.

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Master Builders Calls on Senate to Support The Bill to Extend Compulsory Information Gathering Powers of FWBC

The Construction Industry Amendment (Protecting Witnesses) Bill 2015 currently before the Senate would amend the *Fair Work (Building Industry) Act 2012* to extend the period during which the Director of the Fair Work Building Industry Inspectorate can apply to a nominated Administrative Appeals Tribunal presidential member for an examination notice by a further two years. In other words, it permits the FWBC's power to gain information compulsorily for another 2 years beyond the sunset date of 31 May 2015. The Bill's page is [here](#). The Bill has been referred to the Senate Education and Employment Legislation Committee. Master Builders lodged a submission with the Committee on 10 April 2015 urging the Committee to recommend passage of the Bill so that the proper functioning of the FWBC can continue. Master Builders pointed out the continuing need for the Bills relating to the ABCC to be passed.

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Modern Award Litigation – Employer Win- AM2014/190—Transitional provisions – deletions from On Site Award

The CFMEU failed to win the continuation of provisions relating to accident make-up pay and district allowances in the On Site Award and other modern awards after 31 December 2014. The FWC Full Bench decisions issued on 31 October 2014 [[2014 FWCFB 7767](#)] and 11 February 2015 [[2015 FWCFB 644](#)] mean that 120 modern awards have been varied giving effect to the determination [[PR561478](#)] relating to the discontinuance of those matters ie the deletion of clauses 26 and 27 from the On Site Award relating to accident make up pay and district allowances. The CFMEU has applied to have re-inserted in the On Site and other building awards provisions about accident make up pay.

This matter is the subject of ongoing litigation with Master Builders making a [comprehensive submission in reply](#) on 25 March 2015. The CFMEU, on 4 March 2015, withdrew its application for new district allowance provisions in the On Site and other building awards. However, it continues to press its application for new accident make-up pay provisions. The litigation will continue with further hearings before a Full Bench in Sydney 25-27 May 2015.

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Modern Award Review – Consideration of Building and Construction Industry Main Awards Deferred

The tidal wave of work associated with the 2014 modern award review has swept before it consideration of the two main building and construction industry awards. On 24 March the Fair Work Commission released a Statement in relation to the conferences that were scheduled for 31 March regarding issues in Group 4 Awards. The conferences scheduled for 31 March and 1 April 2015 to consider issues in Group 4 awards will be deferred until later in 2015. Both the On-Site and Joinery Awards are in Group 4. The conferences were, amongst other things, to consider the multitude of problematic issues that Master Builders has raised, particularly in regard to the On Site Award see in particular the submission dated 2 March 2015: <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/AM2014260-sub-MBA-020315.pdf>.

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Competition Policy Review –IR reform

On 31 March 2015, the Government released the [Harper Panel's Final Report on Australian competition law and policy](#). The report contains a number of excellent reform proposals, particularly in the area of industrial relations where Master Builders' policy principles have been adopted. The Panel has recommended that the prohibitions on secondary boycotts currently in the competition legislation should be maintained and more effectively enforced. The Panel has indicated that the ACCC should pursue secondary boycott cases with increased vigour, comparable to that which it applies in pursuing other contraventions of the competition law. It should also publish in its annual report the number of complaints made to it about different parts of the Competition and Consumer Act, including secondary boycott conduct and the number of such matters investigated and resolved each year.

The maximum penalty level for secondary boycotts should be the same as that applying to other breaches of the competition law, so that up to \$10 million fines could be levied against those who undertake this conduct. In addition the Panel noted that it appears to be lawful under the Fair Work Act 2009 to make awards and register enterprise agreements that place restrictions on the freedom of employers to engage contractors or source certain goods or non-labour services. The Panel considers it desirable that this apparent conflict be resolved. The Panel therefore considers that the law should be amended so that the legislation expressly applies to awards and industrial agreements, except to the extent they deal with the remuneration, conditions of employment, hours of work or working conditions of employees.

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Richard Calver, National Director Industrial Relations and Legal Counsel,
rcalver@masterbuilders.com.au

Work Health and Safety

Definition of a Construction Project – Proposal for Increasing the Threshold

Master Builders has recently engaged with Safe Work Australia (SWA) concerning the proposal to increase and index the monetary threshold which defines a building project for the purposes of the model Work Health and Safety legislation. A dollar threshold for defining a construction project currently exists at \$250,000. Above this amount, the additional obligations set out in the legislation for principal contractors apply. The rationale for this threshold was that single storey housing and smaller projects created a lower level of WHS risk and therefore required a lesser degree of coordination. The SWA proposal is to increase the threshold to \$450,000. However, the issue of how a construction project is defined, we have submitted, should be such that splitting of construction contracts to avoid WHS obligations, particularly those relating to the application of the Federal Safety Commissioner's Accreditation Scheme, should not be permitted to occur. Accordingly, we have recommended more genuine consultation on the threshold and related issues. Master Builders has urged SWA to form a specific construction industry group given the extent of regulation applied to the construction industry. We have also recommended that SWA take up earlier recommendations made by Master Builders which expands the definition of a construction project by including a reference to the physical workplace as well as monetary value.

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Revised WHS Codes of Practice Published

The following revised documents have been republished on [Safe Work Australia website](http://www.safeworkaustralia.gov.au) on 27 March 2015:

- Managing the risk of falls at workplaces
- Demolition work
- Spray painting and powder coating
- Labelling of workplace hazardous chemicals
- First aid in the workplace
- Managing electrical risks at the workplace
- Excavation work

Master Builders provided input to the updated Codes. A list of the changes appears at the end of each revision.

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Richard Calver, National Director Industrial Relations and Legal Counsel,
rcalver@masterbuilders.com.au

Training

Construction White Card Review

The Construction and Property Services Industry Skills Council (CPSISC) is to undertake a review and drafting of the unit of competency *CPCCOHS1001A Work safely in the construction industry*, known commonly as the 'White Card'.

The unit will be redeveloped for endorsement within the *CPC Construction, Plumbing and Services Training Package*.

CPCCOHS1001A Work safely in the construction industry is of particular significance as it covers the preparatory and pre-workplace WHS training required before entering a construction site within Australia.

People seeking to work in the construction industry must successfully complete training in this unit in order that they can be issued with a General Induction Training Card ('the White Card'). This induction safety training is mandatory for all persons working on construction sites in recognition of the high-risk nature of construction sites.

In 2013 the unit was the subject of an Australian Skills Quality Authority (ASQA) review because of concerns mainly related to the quality of delivery and assessment outcomes, particularly relating to online implementation strategies. This project will take into account the needs of industry, the Standards for Training Packages and the recommendations from the ASQA report supported by significant national stakeholder engagement.

While there is scope to tighten content, delivery and assessment requirements within the unit, it will not end 'dodgy' practices that are undertaken by some RTOs. These practices are issues which must be tackled by the national regulator ASQA and state regulators in Victoria and Western Australia.

The significance of this unit of competency and the importance of its regulatory function means that the project consultants will work with a wide range of stakeholders and interested parties to ensure the redeveloped unit achieves the required assessment outcomes.

The project is scheduled to commence in March 2015 with completion by October 2015.

Master Builders' National Training Director Robert Wilson will represent MBA on the project reference group.

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Should you have any issues you wish to raise in regards to the 'White Card' review, please contact Robert Wilson at the National Office.

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Robert Wilson, National Director Workforce Development Training,
robert.wilson@masterbuilders.com.au

Housing

Housing Affordability

Housing affordability was an informal agenda item for the recent meeting of the newly formed Council of Australian Treasurers, which met under the chairmanship of Federal Treasurer the Hon Joe Hockey MP. The meeting largely focused on barriers, and measures which could be taken, to increase housing supply. The Victorian Treasurer, the Hon Tim Pallas MP, has agreed to lead a working party of State Treasurers to examine the issue, reporting back to the Council at its next meeting to be held in August of this year.

Master Builders participated in a select consultation forum on housing affordability, chaired by Federal Shadow Treasurer, the Hon Chris Bowen MP. The forum was convened by Mr Bowen to solicit ideas for a policy position on housing affordability being developed by the Federal Opposition. In our remarks, Master Builders emphasised the need to tackle impediments to the supply side of the housing market, in particular improving land release, reducing variations to the National Construction Code, and making greater use of national competition policy-style performance payments to local governments.

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Housing and Productivity

High and rising housing prices may be having a negative impact on Australia's national productivity performance, according to a study being undertaken by the Australian Housing and Urban Research Institute (AHURI), a federal government funded housing think-tank. The study suggests high costs of housing deter potential employees from relocating to live and work in more productive places, often resulting in businesses having to pay higher wages to attract necessary staff. Alternately, businesses which cannot afford to pay such wage premiums (especially new/smaller businesses) have to relocate to be closer to potential staff, losing the synergies of being closer to critical business clusters (known as the benefits of agglomeration).

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Population Forecasts

The number of households in Australia is projected to increase from 8.4 million in 2011 to 12.7 million by 2036, according to the Australian Bureau of Statistics (ABS). Couple only families are projected to experience the largest increase, up almost two thirds from 2011 to reach up to 3.8 million families in 2036. The ABS predicts family households will remain the most common household type in Australia, making up nearly 70 per cent of households in 2036. The number of such households is forecast to increase from 6.0 million in 2011 to 8.8 million in 2036.

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Land Prices

Land prices continue to grow, with the average median lot price in the mainland capital cities topping \$246,300 in 2014, a rise of 4.2 per cent on the previous year, and almost 23 per cent since 2009. The largest increase in median lot price last year occurred in Perth, up 9.4 per cent to \$261,000. The average median price for land paid by new homebuyers was \$527 per square metre, an increase of 9.5 per cent on 2013 and 40 per cent since 2009. The largest increase in land prices for new homebuyers occurred in Sydney, up nearly 19 per cent over 2013, to \$755 per square metre.

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Rental Prices

The median rental for houses rose by 2.6 per cent, on national average terms, in the March Quarter of 2015. The largest increases were in Hobart (up 6.1 per cent), Sydney (up 3.9 per cent) and Adelaide (up 2.9 per cent). By contrast, median rents for houses fell in Darwin (down 3.1 per cent) and Perth (down 5.3 per cent). Median rents for apartments were even weaker, rising just 1.3 per cent nationally over the same period, with either no growth (Brisbane, Adelaide and Hobart) or falls (Canberra and Perth).

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Brent Davis, National Director Industry Policy, brent.davis@masterbuilders.com.au

Commercial Property

Demand for Commercial Property

Local demand for commercial property fell sharply in the March Quarter of 2015, according to new figures from CBRE, a property marketing firm. Domestic purchases of commercial property totalled just \$1.6 billion in the March Quarter 2015, well down on the \$3.5 billion recorded for the same time in 2014. By contrast, foreign demand for Australian commercial property rose from \$0.9 billion in Q1 2014 to \$1.4 billion in Q1 2015. The fall in demand for commercial property was most pronounced in the retail sector, dropping from \$1.4 billion to \$0.6 billion over the same period.

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Vacancy Rates

Vacancy rates for offices in central business districts are outstripping those for suburban areas. New figures from Knight Frank, a property consultancy, report the average CBD vacancy rate for offices stood at 9.6 per cent of available floor space in January of this year, compared to 7.4 per cent for suburban office space. The highest vacancy rate occurred in Brisbane CBD offices (15.6 per cent), followed by Melbourne and Sydney (at 9.1 per cent and 7.4 per cent respectively).

Brent Davis, National Director Industry Policy, brent.davis@masterbuilders.com.au

Technical

Building Codes Committee

The Building Codes Committee, an advisory body to the Australian Building Codes Board (ABCB) met in Perth on 26 March 2015. Key policy issues discussed at the meeting included the modalities of transitioning, and the operation of, the proposed three amendment cycle to the National Construction Code (NCC), future directions for the Codemark scheme, and the treatment of energy efficiency rating tools within the NCC. The ABCB Office also signalled it was looking to develop National Practice Notes to better inform users about key elements of the NCC framework.

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Australian Building Regulation Bulletin 14

The Australian Building Codes Board (ABCB) has released the latest edition (#14) of its Australian Building Regulation Bulletin (ABRB). Key issues reported in the newsletter include changes to NCC 2015 (such as the increasing use of performance; structural reliability; and weatherproofing), and ongoing work being undertaken by the ABCB to improve the useability of the National Construction Code (NCC). The ABRB also contains a series of articles looking at performance based design solutions. Copies of the Bulletin can be found at: <http://www.abcb.gov.au/en/education-events-resources/publications/abrb>

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Fire Resistance of Timber

Standards Australia has sought industry comment on a proposal to update the existing AS 1720.4, which deals with the fire resistance for structural adequacy of timber members in buildings. The proposed update to the Standard will consider methods to calculate fire resistance timber barriers used as walls, floors or roofs and to develop char blocks for junctions in fire rated walls and floors. The changes will also bring Australian regulations into line with those of New Zealand. Copies of the background papers on the matter are available from Master Builders upon request to interested members.

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Sanitary Plumbing and Drainage

The Australian Building Codes Board (ABCB) has sought industry comment on a proposal to update AS/NZS 3500 Standards Review Part 2: Sanitary Plumbing and Drainage. Currently, AS/NZS 3500.2 contains matters of public policy. This proposal is to relocate public policy matters to the National Construction Code. The proposed changes will remove conflicting advice and clarify design and installation direction for plumbing practitioners, which will in turn increase the likelihood of more efficient public health and safety practices. Copies of the background papers on the matter are available from Master Builders upon request to interested members.

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Masonry in Small Buildings

Standards Australia has released for industry comment a proposed draft standard on masonry in small buildings. The proposed is intended to supersede AS 4773.2—2010, and be a companion document to AS 4773.1, Masonry in small buildings, Part 1: Design. The objective of the Standard is to provide minimum requirements for use by builders for the construction of masonry in small buildings, such as houses and garages. Copies of the draft standard are available from Master Builders upon request to interested members.

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Heat Soaked Tempered Safety Glass

Standards Australia has sought industry comment on a proposed international standard on heat soaked tempered safety glass. The proposed international standard covers product definitions, product characteristics, i.e. tolerances, flatness, edgework, etc., fracture characteristics, including fragmentation, and the physical and mechanical characteristics of flat heat soaked tempered soda lime silicate safety glass for use in buildings. Copies of the draft international standard are available from Master Builders upon request to interested members.

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Brent Davis, National Director Industry Policy, brent.davis@masterbuilders.com.au



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Events

Master Builders National Conference



We are excited about the Master Builders biennial National Conference heading to the Gold Coast in November, what will undoubtedly be the industry event of the year once again.

Unlike many traditional industry conference that have a program full of just technical sessions the Building Australia conference stands out amongst the rest.

The Master Builders National Conference 'Building Australia' focuses on leadership and assisting members to make informed decisions in continuing to grow their business whilst developing and maintaining strong leadership attributes within their business ethos. With high profile speakers that will examine the building industry outlook and topics relevant to today's building and construction industry.

The conference program and registration including partners and social program will launch in mid-May along with a Super Early Bird end of financial year special registration price.
<http://www.masterbuilders.com.au/Events/national-conference>

The Master Builders Excellence in Building Construction Awards will be presented as part of the National Conference on the Saturday evening as the grand finale to an exciting conference on the Gold Coast.....We look forward to seeing you there!

