

# Master Builders Victoria Policy Priorities

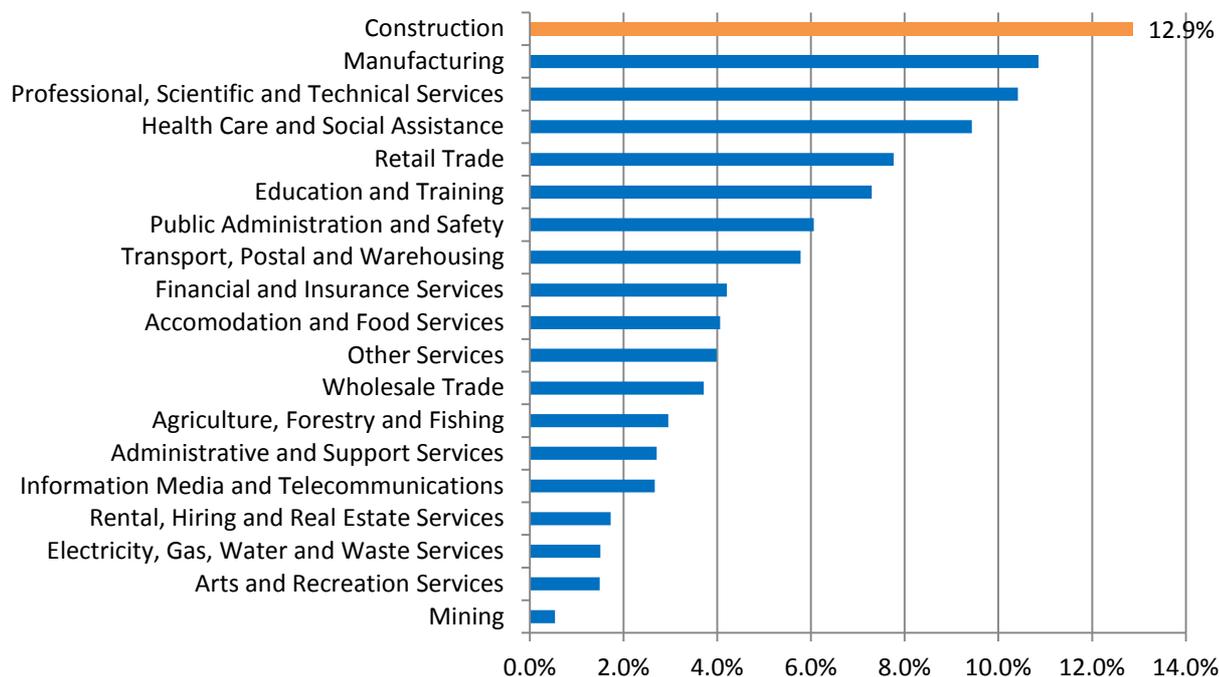
September 2018

## Towards a sustainable and successful Victoria

The Victorian Building and Construction sector is the most important sector for the Victorian economy and community.

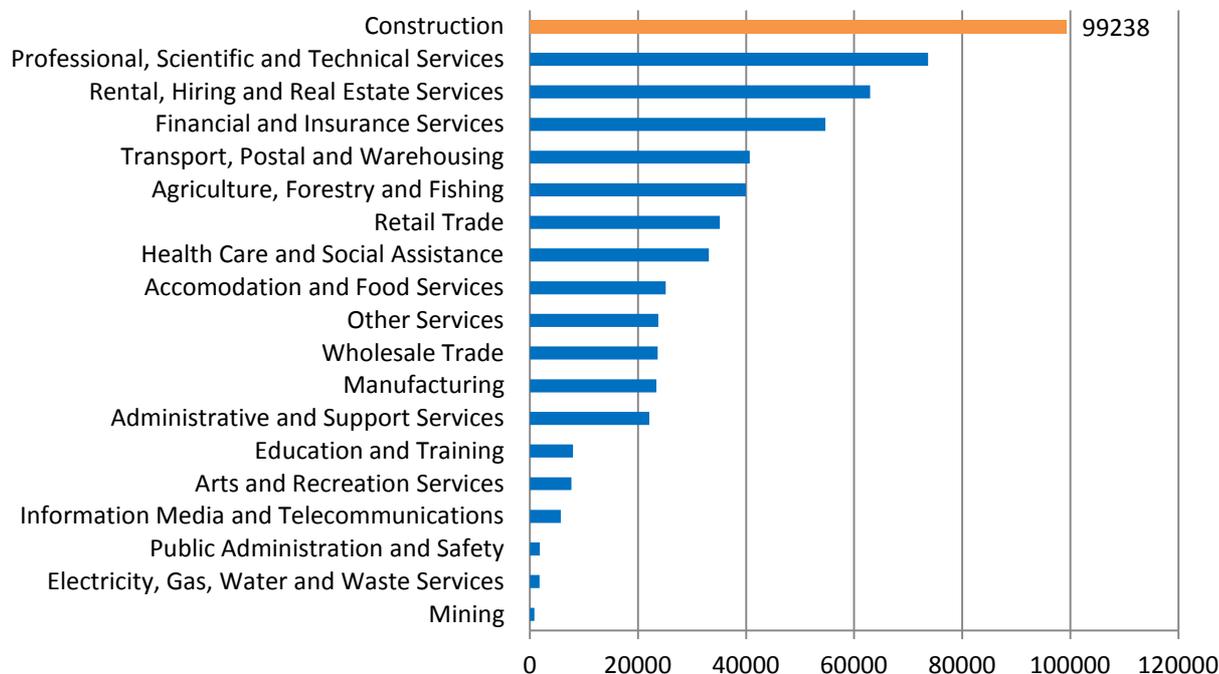
- The sector delivers the houses, infrastructure, parks, sports stadiums, shopping centres and transport that are needed to maintain our way of life.
- The industry is **the largest full-time employer in the economy**, currently generating about 281,503 full-time jobs and 331,209 jobs overall according to the latest data. Part-time employment in the sector grew by 30.4 per cent over the 12 months to May 2018.
- The sector is the **largest sector by number of firms in the state**. There were 99,238 firms in the Victorian construction industry at the end of June 2017, or 16.8 per cent of the 590,820 businesses within the state.
- The sector contributes 7.4 per cent of the state's Gross State Product (GSP) of the state in FY 2016/17, or \$29.6 billion measured in dollar value. This makes it the **fourth largest sector in terms of economic output**.
- The State Government relies heavily on income from the property sector accounting for **more than 40 per cent of Victoria's tax revenue**.

## Contribution to Victorian Full-Time Employment, May 2018 quarter



Source: ABS

## Number of Construction businesses in Victoria, as at June 2017

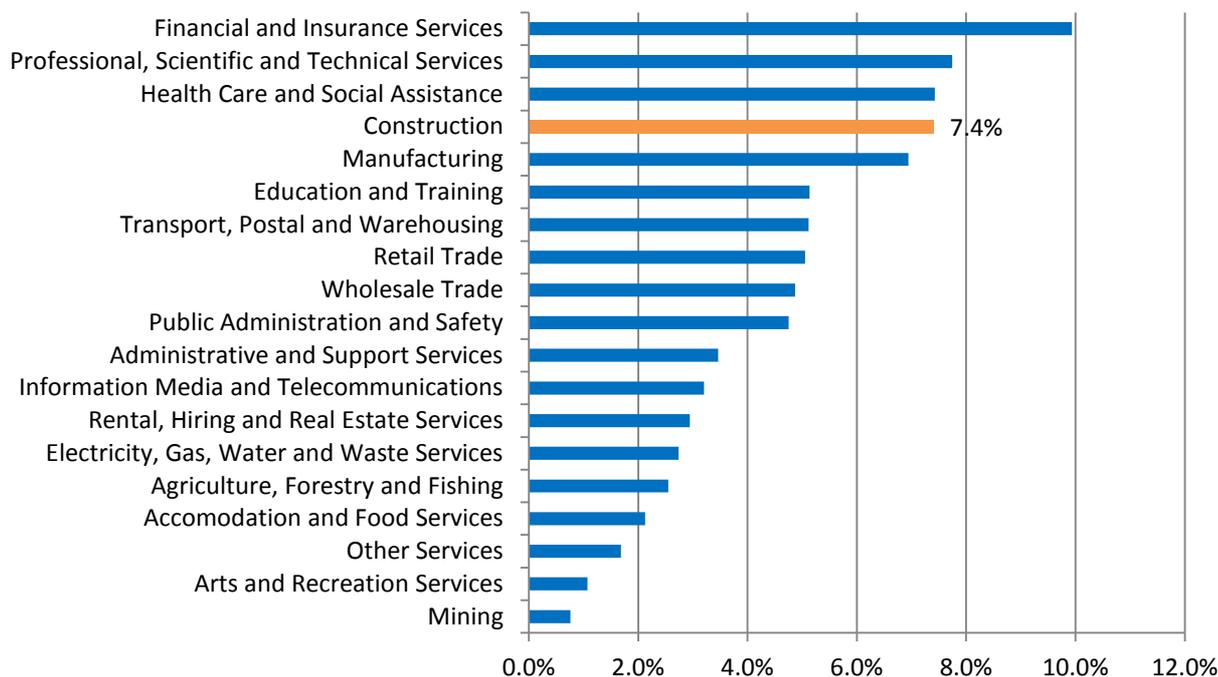


Source: ABS

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**Chart 3 Industry Share of Victorian GSP, FY2016/17**



Source: ABS

There are however, looming crises that need to be dealt with as a matter of urgency – yet the continued dysfunction between layers of government and unnecessary bureaucracy are holding us back. Just some of the key issues that need to be addressed in our sector include:

- Continued issues in planning are hampering housing supply and greater urban densification.
- Deloitte has forecast that 64,177 new workforce entrants are needed over the next 10 years, in addition to the already significant construction workforce – yet we have a skills shortage and high vacancy rates in our sector. There has been a decline in the number of people commencing vocational courses in construction trades, from 8,400 in 2015 to 6,600 in 2017.
- Continued instances of poor workmanship spotlight the need for mandatory trades registration and Continuing Professional Development (CPD) in our industry, to protect consumers and ensure quality and safety outcomes of our built environment.
- Our regulators like the Victorian Building Authority (VBA) and WorkSafe Victoria continue to take a punitive and reactive approach to enforcement. We need to see proactive, fair and pragmatic approaches going forward to safeguard the quality and safety of the work being done in our industry.

Addressing the issues plaguing the Victorian building and construction sector however is more important than ever. As Australia's fastest growing state, Victoria's population grew by 2.4% over the year to March 2017 – or 149,000 people. In a report commissioned by Master Builders, Deloitte Access Economics projects strong

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population growth to continue over the next decade- on average 1.6 per annum, which is the equivalent to an extra 1.1 million people in Victoria until 2027.

According to Deloitte research, the pressure on the building sector and the planning system will continue to grow. The additional people in Victoria will need somewhere to live, which will underpin considerable demand for new housing and infrastructure over the next decade. An average of 54,400 housing starts each year over the next decade is projected, which compares to an average of 54,770 over the past decade, and 41,460 over the decade prior. By 2051, the State Government has predicted that up to 2.2 million new homes will need to be constructed.

We must act now to ensure a sustainable and successful sector for the good of the Victorian Community.

Master Builders Victoria (Master Builders) makes a number of recommendations for the future of the industry, but importantly highlights that a coordinated and focused approach is required if effective reform is to be achieved. This therefore requires the appointment of a Building Minister who is able to coordinate the multiple ministries to focus on for example, attracting and retaining skills in the industry and who is able to oversee initiatives such as developing a housing supply expert panel to deal with the looming housing supply crisis in Victoria.

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## Policy priorities - a summary

### Building Minister

1. Appoint a Building Minister

### Appropriately skilled and sized workforce

2. Introduce mandatory Trades Registration
3. Introduce mandatory CPD program
4. Fund a stakeholder driven consumer awareness campaign on careers in the industry
5. Support for industry RTOs
6. Focus on apprenticeships and skills shortages specific to the building sector
7. Shortage of building surveyors and insurance

### Affordable and effective housing supply

8. Create a Centralised Planning scheme
9. Establish an incentive programme targeted to the building industry to encourage affordable housing options
10. Increase 'as-of-right' codified planning approvals

### Efficient and effective regulation

11. The VBA increases the number of its proactive building inspections each year – and the Government holds the VBA to account
12. Consider means by which greater education and information about the significant changes to legislation and regulations can be provided to industry and consumers

### Right products

13. Take a practical and reasonable approach to responding to non-conforming and non-compliant products
14. Government to agree the solution to cladding is a whole of industry approach, including government

### Effective infrastructure funding and supply

15. Government to commit to control EBA wages and site allowance costs in a commercially responsible way

### Small business

16. Government to continue its commitment towards cutting red tape on planning and building laws
17. Government should extend payroll tax to larger businesses.



## Implementation of a Cross-Border Commissioner

18. Appoint a Cross-Border Commissioner in Victoria

## Safe workplaces

19. Require Worksafe to enforce SWMS
20. WorkSafe to proactively educate industry
21. Industrial manslaughter and wage theft should not be introduced to the OHS Act. Instead, an effective enforcement of Section 32 of the *OHS Act 2004* which imposes the offence of reckless endangerment is required.

## Fair workplaces

22. Preserve existing legal arrangements for genuine independent contracting
23. Security of payment. Will government introduce this kind of legislation in Victoria?



## 1. Building Minister

The building and construction sector is one of the most important to Victoria and yet it has looming problems particularly related to skills and training that must be addressed as a matter of urgency. The issues are broad and complex but at the heart of the challenge is a lack of co-ordination and leadership that is needed to deliver and drive solutions. Numerous commissions, taskforces and working groups have been launched to investigate and resolve some of the major challenges in our industry. However, there is not yet an overarching strategy - or one Ministerial Department- responsible for addressing these challenges. Instead, there are multiple departments and ministers responsible for the regulation and delivery of policy for the industry. For example, ministries involved in governing the building and construction industry are Planning, Treasury, Finance, Education/Training, Skills, Consumer Affairs, Energy/Environment, Infrastructure, Roads/Ports, Industrial Relations, Regional Development, Small Business/Innovation/Trade, and Mental Health. Furthermore, the regulators of our industry include the Auditor General, WorkSafe, Victorian Building Authority and the VMIA.

As one example, in dealing with problems associated with skills and jobs in our industry, there are a plethora of activities crossing many departments and portfolios. To name a few of these groups Master Builders is directly involved in:

- Victorian Apprenticeship and Trainee Taskforce (rebalance and relaunch)
- User Guide to Quality VET Teaching Practice Focus Group
- Premier's Panel: Enhancing Victoria's economic performance
- Premier's Panel: Jobs and Investment
- Pilot program in Bendigo to investigate apprenticeship attrition rates
- Industry Advisory Group
- Sprint session: Improving workforce preparation for the future, and
- Victorian jobs partnership.

The cross-over of content and the fact that different working groups are situated in different departments and accountable to different Ministers suggests that the approach is scatter-gun. To make matters worse, they are often associated with all industries – yet apprentices in building and construction have little in common with apprentices in hairdressing. As highlighted later in this submission, Victoria is facing a substantial challenge of ensuring we have a skilled building and construction workforce to meet the needs of our growing population.

The complexities of the challenges require a coordinated, strategic and *focused* approach. We welcome the Liberal Party's recent appointment of the Shadow Minister for the Building Industry, and call on Labor to do the same.

### Recommendation

Appoint a Building Minister



## 2. Appropriately skilled and sized workforce

### 2.1. Mandatory trades registration

Master Builders considers that mandatory trades registration is a crucial step to addressing high attrition rates for construction trades and ensuring that Victoria has the right number of adequately trained skilled tradespeople to carry out construction work into the future.

Given we are experiencing – and will continue to experience – substantial population growth expected to require the construction of 2.2 million homes by 2051,<sup>1</sup> we need to ensure that our workforce is skilled appropriately. Trades registration in Victoria would not only address quality shortcomings in the industry, but give legitimacy and reputation to trade qualifications and make a trade more attractive as a career path.

Among the many benefits, a mandatory system of registration will:

- protect consumers by improving the accountability and quality of the industry
- improve the industry by ensuring that quality is achieved and minimum skills are obtained
- allow trends in work and complaints to be monitored and dealt with
- enhance the careers of tradespeople by ensuring there is a strong reputation and skills level in the industry and is one that creates pride and a path to success
- equip trades people with the skills and qualifications to match the jobs for the future of Victoria.

Almost 1300 people signed the Master Builders petition calling on the government to 'Introduce Mandatory Registration of Trades in Victoria' in 2015.

Victoria is trailing far behind New South Wales (NSW) and Queensland (QLD) when it comes to the registration of trades. Only 2000 tradespeople are registered in Victoria, compared to around 40,000 in NSW and around 46,000 in Queensland.

After a decade of lobbying by Master Builders for mandatory trades registration, the Andrews Government introduced legislation into Parliament in July 2018. Master Builders has welcomed the new laws but cautions that the test of the legislation will be in the details.

Our position is that a model of subcontractor registration based on the existing domestic trades registration categories is the right solution for Victoria. This would include carpentry, bricklaying, waterproofing and concreting.

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<sup>1</sup>Victoria in Future 2016: Population and household projections to 2051, Department of Environment, Land, Water and Planning, 2016



There has been no formal policy on trades registration released by the Liberal party. There is likely to be concern within the party that mandatory trades registration could be seen as a pro-union stance.

## 2.2. Mandatory CPD program

Underpinning a trades registration system, must be a requirement for a practitioner to keep their skills and knowledge up-to-date. There is a well established voluntary system of CPD in Victoria, and some mandatory systems in other jurisdictions. Master Builders has provided input into stakeholder consultations conducted by the VBA into a CPD model, and such a model has been generally agreed by industry. Therefore, there are few impediments to the introduction of the model and Master Builders considers that mandatory CPD should not be delayed.

## 2.3. Careers in construction

The lack of awareness about the broad variety and importance of careers in the building and construction industry is being translated into a shortage of workers in the rapidly expanding industry. Beginning at the apprenticeship level and continuing through to trades and other areas of the industry; there is a shortage of workers in the industry. More than just a recruitment drive, there is a need to change the cultural perception of the careers in the industry.

Our growing population will need somewhere to live, upgraded and new roads to drive on, parks to enjoy, access to quality hospitals, schools and aged-care facilities. On top of the \$9.6 billion per annum infrastructure agenda the State Government is pursuing over the next four years, underpinned by population growth, the residential sector will remain strong. Deloitte estimates that an **average 54,000 new homes will need to be built each year for the next decade.**

By 2026-27, Deloitte has forecast that Victoria will need 10,507 new carpenters and joiners, 206 new registered surveyors and 1,980 new bricklayers and stonemasons. **The total employment in the Victorian construction industry is expected to require an additional 64,177 new entrants over the next decade.**

This scale of growth is great news for our state – but can our building and construction workforce keep up with this level of activity?

The current signs are concerning. The number of people in training for construction trades is dropping and skills shortages in major parts of the construction sector are compounding each year. **There has been a decline in the number of people commencing vocational courses in construction trades, from 8,400 in 2015 to 6,600 in 2017.** Of those that commence training, we know that 52 per cent of trades apprentices will not complete their apprenticeship.

**In 2015 there were only 9 completions of the Bachelor of Surveying in Victoria.**

Despite being the largest full time employer in the state, the construction industry has the lowest share of female workers in its workforce of all industries. The construction industry's female



employment share of 9.5 per cent is far less than education (72 per cent) and health (78 per cent), but is also less than other traditionally male dominated industries such as mining (22 per cent), transport (24 per cent), and manufacturing (29 per cent).

For too long, entering a trade has been seen as inferior to a university education, and if we are to keep up with the skills needs that will be required by the sector in the future, there will need to be a concerted investment in changing the cultural perceptions of careers in the industry. The breadth of careers means that there are a variety of ways to enter the industry, not just through apprenticeships.

A broad industry career awareness campaign is a practical way of closing the gap between employer and apprentice expectations, and is also a practical method of attracting more women into the industry.

In addition, holding a symposium with current leaders and prominent youth spokespeople to develop solutions to attraction and retention of skills in our industry will increase the profile of the industry and launch thought leadership into the community.

## 2.4. Industry RTOs

Industry Registered Training Organisations (RTOs) provide specialised training services that are tailored towards students working in the industry. When the building and construction sector delivers substantial employment for the state, then the importance of building and construction RTOs is magnified.

As a key construction industry RTO, Master Builders (RTO 3935) provides training courses in business management, leadership, sustainability, safety, building and compliance, industrial relations and legal requirements. In 2016/17 Master Builders provided more than 78,000 training hours and was awarded the Victorian Small Training Provider of the Year. Training courses cross areas such as IR, OHS, legal, building and construction, human resource management, sales and customer service.

The importance we place on soft skill training is evident in the Master Builders Building Leadership Simulation Centre (BLSC), which is the only training provider in Australia to offer experiential learning in the form of simulation modules as part of construction and project management qualifications at certificate and diploma level. As well as providing tailored industry content, industry RTOs like Master Builders provides students with expert support and guidance. Of particular note, Master Builders has a specialised Learning Enrolment Team consisting of dedicated administrators and expert learning consultants who, amongst other things, conduct pre-enrolment testing and interviewing, literacy and numeracy testing, and extra tutorials. In the longer qualifications, Master Builders allocates each unit trainers who have expert knowledge on that precise topic, rather than allocating the full course to just one trainer who may not have the same level of specific knowledge. With access to industry experts, students are also exposed to



strong links in the industry, which can help in work experience placements and career paths. The success of the Master Builders Industry RTO was highlighted in NVCE's report below.

## **The Victorian Government's VET student outcomes: 2017 Master Builders Association of Victoria – excellence in quality outcomes compared to the VET sector**

**Results** based on feedback received in 2016 via the Student Satisfaction Survey:

- 98.6 per cent of Master Builders' students found employment after studying, compared to 77.7 per cent national average.
- 94.8 per cent found the training relevant to their current job, compared to 79 per cent nationally.
- 95.9 per cent of students achieved their main reason for doing the training, compared to 84.2 per cent nationally.
- 95.9 per cent would recommend the training provider, compared to 89.4 per cent average.

Government support is important in providing quality and consistent VET courses. In addition to supporting TAFEs, Master Builders is hopeful that the Government recognises the work of industry RTOs in delivering specialised and quality courses with excellent employment outcomes.

In particular, the Government needs to offer equivalent funding opportunities and certainty of funding to RTOs as is offered to TAFEs. For example, industry RTOs should be able to offer government funded Certificate IV courses to all students, even those who have completed a different Certificate IV in the past. This is something available to TAFEs but not to Master Builders.

## **2.5. Specific barriers to skills in our industry**

There are numerous activities being undertaken across a broad range of departments and Ministries to address skills and supply gaps across the Victorian economy, but many of these activities are not focused solely on the building and construction industry. Whilst we support the establishment of the Skills Commissioner for example, we consider that programs of research and work need to focus on our sector, if sufficient reforms are to be achieved.

An example of a critical skill and supply gap within the industry that requires examination is the building surveyor occupation. Despite the critical importance of building surveyors in providing key oversight and quality control in the building process, only 9 completions for the Bachelor of Surveying in Victoria in 2015 occurred.<sup>2</sup> Industry insights reveal that TAFEs requiring building surveying teachers to have certain qualifications and strong levels of experience, in addition, the application of a salary cap for such teachers, are contributing factors to the overall supply gap within the profession. Indeed, sourcing such experienced lecturers is difficult when greater financial opportunities exist in the private sector for the profession. As such, the lack of building surveyor teachers results in the lack of building surveyor graduates.

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<sup>2</sup> Deloitte Access Economics, 'Construction workforce in Victoria', Master Builders Association of Victoria.



The State Budget included an additional \$303.8 million to fund training courses, including those provided by RTOs like Master Builders. We have previously highlighted that funding “skills sets” would be beneficial to the industry and enable more quality training to be provided from this already allocated budget funding.

The NCVET report of Total VET activity for 2017 (released last week) showed a decline in overall training activity, which was most pronounced in Certificate IV and Diploma qualifications. However, “subject enrolments” representing stand-alone units, modules or skills sets increased almost 20%. Accordingly, there appears to be unmet demand for “subject enrolments”. We consider that such enrolments should be supported to ensure that individuals are being trained in areas that they need most and to open up pathways for those students to full qualifications over time. We note that this will also enable certain important courses like waterproofing (listed in the attached document) to be funded. Waterproofing is one of the biggest problems in the industry, generating high rates of disputes at the DBDRV as well as insurance claims.

We urge the Government to extend the funded courses under the Skills First regime to include certain skills sets in our industry (we list those skills sets most needed in the attached document). As many of these units and modules already form part of the full Cert IV and Diploma qualifications, then few additional regulatory auditing or oversight processes will be needed. Master Builders' RTO already undergoes rigorous auditing processes, thus ensuring that all legal and regulatory requirements for those skills sets are already being met.

Both Labor and Liberal parties recognise the risk to Victoria of the skills shortages we are facing. Failure to address the shortage will significantly slow economic progress in our state. We expect to see the major parties announcing more detailed education and skills policies as we get closer to the election.

## 2.6. Support employers to hire apprentices

Employers are essential to apprentices succeeding. We recommend that the government explore programs to support employers to hire apprentices. One example of such programs is the previous Back to Work scheme, which provided employers with up to \$11,000 for hiring and training eligible employees. We recommend that the government consider reintroducing this scheme with a focus on employing apprentices in the building and construction industry. This will become especially relevant if mandatory trades registration is introduced in Victoria, as it will likely result in an increase in the number of people undertaking apprenticeships.

### Recommendations

1. Introduce Mandatory Trades Registration and CPD program
2. Fund a stakeholder driven consumer awareness campaign on careers in the industry



3. Support industry RTOs – including offering equivalent funding opportunities and certainty of funding as is offered to TAFEs
4. Focus on apprenticeships and skills shortages specific to the building sector
5. Support employers to hire apprentices



### 3. Affordable and effective housing supply

CEDA's report in August 2017 'Housing Australia' suggests that Australia's Housing Affordability crisis requires major reforms to be achieved – including reforms to planning decision through local councils and strategic delivery of housing solutions.

CEDA's service sector report in June 2017 highlighted that the majority of workers in Australia are engaged in service industries and this is growing. This means that there is a trend for a larger population to live and work in our cities and therefore for more people to live in apartments and rent on a long term basis.

Other trends such as people ageing in place and migration, are also placing demand pressures for greater urban densification.

This requires a strategic approach to delivery of housing and rental solutions as well as adequate transport and infrastructure to accommodate greater inner city density and to connect outer suburbs with employment hubs.

The Liberal party has announced a broad-ranging policy position and a five-point plan for responding to housing affordability and increasing opportunities for Victorians to own their homes. It has said it will fast-track the release of up to an additional 290,000 residential housing lots to help make more houses affordable, and concurrently fast-track the completion of the planning of all metropolitan Precinct Structure Plans by 30 June 2020. The Liberal party has also said it will introduce timeframes enforced by financial penalties for regulators and authorities for unreasonable delays in the land supply-delivery process.

The Labor party has announced *Homes for Victorians*, its comprehensive plan to make housing more secure and affordable. The government commitment includes the *Victorian Social Housing Growth Fund* and as a \$2b investment pipeline of new social housing. Over the next five years, the fund will create up to 2200 new social housing places through the construction of new dwellings and leases. Eligible community housing organisations will have access to \$1.1 billion in low-interest loans and government guarantees.

#### 3.1. Planning

Master Builders has long been calling for planning system reform. The Victorian planning system is plagued by long and costly delays and inefficient practices. The 2017 report released by the Auditor General painted a damning picture of the Victorian planning system and its costly delays. In 2015-16, Yarra City Council on average took 117 days to make a planning decision – more than two months longer than the required 60 day timeframe. The report, titled *Managing Victoria's Planning System for Land Use and Development*, refers to an estimate that on a project with a land cost of \$5.2 million, holding costs could increase by \$100,000 per month if the process drags on past the standard 12 month project timeframe. These figures are alarming, and steps must be taken to address the dysfunctional system.



Master Builders has long highlighted the inefficiencies in local council planning decisions and barriers to greater urban densification – requiring action to set goals and targets for individual councils for the overall benefit of the Victorian economy. Master Builders has advocated for planning decisions to be taken out of the hands of Councils – through planning hubs or other mechanisms.

An option that could be considered to reform and create real change as part the Reforming Victoria Planning Provisions process is a centralised planning scheme. In the 2016 *Draft Options* paper proposed by Infrastructure Victoria, the possibility of a centralised planning scheme was presented. Under the proposal, key planning decision making and infrastructure coordination is transferred from local councils to a centralised authority, such as the Victorian Planning Authority (VPA) - this option directly addresses the major issue in the current planning system: local council decision making. Master Builders endorses Infrastructure Victoria's comments that: *"this option is expected to help reduce the mismatch between supply and demand for infrastructure and services, as well as better match the location of population growth with the location of existing services – Draft Options Book, page 101.* An alternative to this approach could be a Housing Supply Expert Panel such as that created in Queensland.

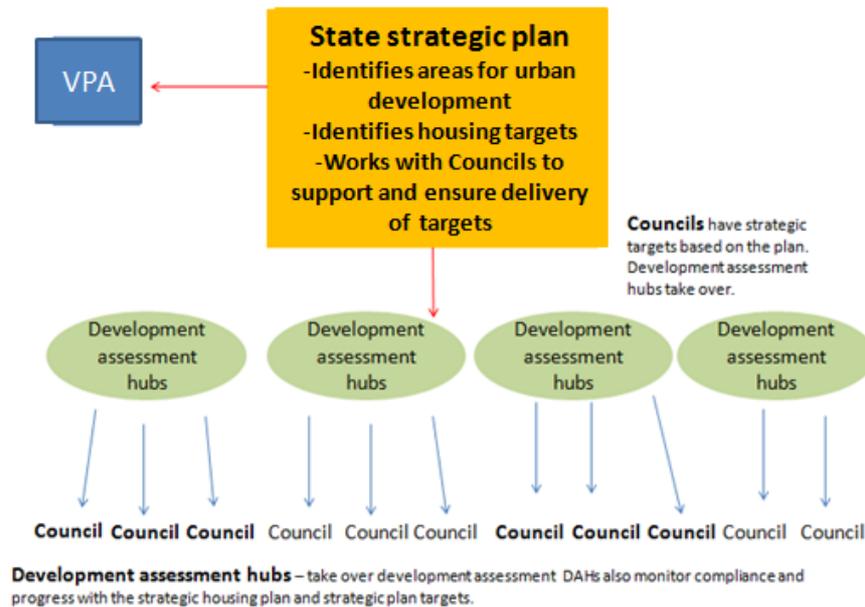
In Queensland, in August 2017 the Premier, Anastacia Palaszczuk MP announced a Housing Supply Expert Panel to ensure that housing needs will keep pace with estimated growth in the South East region. The aim is to ensure industry and all levels of government are accurately informed of land supply, housing demand and development information so that there are adequate housing options to meet demand. Whatever approach is taken in Victoria, it's clear that independent and robust analysis of housing needs and locations is needed to hold local councils to account and ensure that the communities housing needs and diversities are met.

The Liberal party has pledged to introduce strict new planning rules within its first 100 days in office. These include:

- reintroducing the two-dwelling limit on lots in the Neighbourhood Residential Zone
- reducing the building height in parts of the Neighbourhood Residential Zone
- bringing back the nine-metre discretionary height limit in the General Residential Zone
- Reviewing the 'Garden Area' rule to make it more sensible and workable.

At time of writing, the Labor Party has not made any specific campaign policy promises on planning. The Andrew's government introduced its Smart Planning program to simplifying and improving the operation of the planning system.





Master Builders also considers that the introduction of Development Assessment Hubs- taking decisions that are hard or complex out of the hands of local councils would be appropriate.

Looking at **the *Know you Council website*** – and comparing some of the Councils, they are still deciding planning applications slowly. What is interesting is their explanations (below), which state they have had an increase in applications and their complexity (because of high density residential proposals). If we are to deliver the 65/35 split from Plan Melbourne and deliver on the population growth pressures, then change is required. Minister Wynne’s proposed Design Advisory Service (external designers which the Councils can pay to help with assessments) is not going to help with the speed of the process unless there are significant resources directed at that body, there is an independence afforded to that body and Councils are required to adhere to the decisions of the designers.



## Know your Council Website 1/06 2017



In South Australia a system of local Council Development Assessment Panels (CDAP) has been established, making it compulsory for Councils to delegate all development assessment decisions to a delegated officer, a local CDAP or a regional DAP. The composition of CDAPs include a presiding member who is not from Council and has planning experience, half of the members being independent/specialists and up to half the remaining staff can be from Council. Recently, Property Council Australia has recommended that elected officials are removed from the CDAPs. Master Builders understands that Development Assessment Panels in South Australia has worked well where SA Councils are now required to delegate all of their decision-making on Development Assessments to either staff or a Panel. In NSW they have created an independent hearing and assessment panel model which has been in place for some time for particularly complex development assessments.



### 3.2. Incentives for housing diversity and affordability

As the housing affordability problems take the dream of home ownership away from many people, incentives to increase supply of building stock are required. Social impact investments such as loan schemes, 'density bonuses,' and build-to-rent schemes are examples of incentives for the building industry that can improve housing affordability and as such, should be examined. Build-to-rent schemes are commonly seen in the US and parts of Europe and allow for a more diverse range of housing options for the community. These schemes also benefit renters via security of tenure, certainty in rental increases, and better overall management of rental housing. In August 2017, the NSW government announced that they would establish a working group to look at creating a 'build-to-rent' housing sector in NSW.

### 3.3. Encouraging greater density

Master Builders has also continued to highlight the unnecessary red-tape and restrictions imposed by government and local councils associated with obtaining planning approvals. This was highlighted by CEDA in their housing report as an issue – with a recommendation towards “relaxing planning restrictions, particularly those imposed by local councils, making them more consistent and allowing for increased density.” Master Builders considers that the Smart Planning program should continue, but that much more can be done to ease the burden of planning approvals including greater as-of-right codification of secondary dwellings and subdivisions.

#### Recommendations

1. Create a Centralised Planning scheme – e.g. through the VPA or a Housing Supply Expert Panel
2. Introduce Planning Assessment Hubs – for complex or difficult Council planning decisions
3. Investigate an incentive programme targeted to the building industry to encourage affordable housing options
4. Ease the burden of planning approvals by including greater as-of-right codification of secondary dwellings and subdivisions

## 4. Efficient and effective regulation

In regulating the industry, the government must be pragmatic and practical. The industry needs an approach that facilitates best practice, while allowing for ongoing innovation.

The industry has experienced a raft of *Building Act 1993* changes over the course of the last few years. These changes have been implemented in tranches – making it difficult to have a consolidated view of the changes that have occurred. The Government should therefore consider means by which greater



education and information about the significant changes to legislation and regulations can be provided to industry – including working with Federal Government to make Australian Standards available for free.

New regulatory requirements must be allowed time to flow into the system to assess their viability before new changes are considered. Indeed, new very broad powers of inspection and investigation given to the VBA will only come into effect in 2018. These must be allowed to be assessed and monitored over time to determine their effectiveness, before considering any further changes to the VBA's inspection powers. In addition, it is often the case that regulatory changes aren't the answer. Master Builders agrees with the Government's response to the Victorian Cladding Taskforce Chairs' Interim Report in November 2017 to *"require the VBA to inspect more of Victoria's buildings each year – from less than two per cent up to 10 per cent"*. We consider that increased inspections by the VBA, conducted in a fair and pragmatic way, is a better means of improving quality outcomes in the industry, than more regulation. Master Builders considers the VBA should inspect a larger proportion of owner-builder sites and other high risk locations that require more oversight.

Master Builders agrees with the Government's response to the Victorian Cladding Taskforce Chairs' Interim Report in November 2017 to *"appoint a State Building Inspector – a leading expert to provide the very best technical knowledge."* The significant problem associated with cladding has highlighted that more proactive guidance from regulators is needed to understand how to apply the NCC and to comply with changing building practices.

In an era of new technology and innovation, then the application of rules and processes will need even further guidance over time. For too long, the VBA has taken a reactive stance – acting as an enforcer after the event, instead of providing adequate guidance and interpretations of the law. We would welcome the establishment of a State Building Inspector within the VBA to address those issues – but this role also needs to allow for industry practitioners to be adequately consulted and listened to.

Of course, the Government must ensure that the VBA is adequately resourced and equipped by appropriately skilled and expert practitioners to be able to deliver on the roles and responsibilities that are being given to it, and which it already has to regulate building practitioners and building practices.

Where regulation is warranted it must be clearly and consistently applied. Government must be willing to listen to industry and work on genuine, practical long-term solutions to industry problems.

### Recommendations

5. The VBA increases the number of its proactive building inspections each year – and the Government holds the VBA to account
6. Improve shortage of supply and provision of insurance for surveyors



## 5. Right products

The issue of non-complaint cladding as well as other high profile construction product failures has highlighted a challenge to our industry. One of the clear issues that the industry has faced is the lack of proactive guidance and information about the application of the NCC as well as certification of new and emerging products. Master Builders nationally, has called for the establishment of a clear and comprehensive product certification system, and hopes that state and federal governments will work together to develop this as soon as possible. As previously mentioned, the establishment of a State Building Inspector will also assist with providing guidance proactively to industry.

Any further regulatory changes must be implemented with consideration and extensive consultation and buy-in from industry – to ensure that innovation, flexibility and viability of the industry can be maintained.

## 6. Effective infrastructure funding and supply

CEDA's Housing Report in August 2017 highlighted the necessity for "developing consistent planning and funding models for transport infrastructure to better connect new housing developments to the various employment hubs". The plans for infrastructure provision and ensuring that development contributions are used effectively – must be a priority for the Government in a state that has the fastest growing population.

We have already outlined models for centralised housing planning, and infrastructure provision could well be included within this process.

### Recommendation

8. Create a centralised planning scheme

9. Establish an incentive programme targeted to the building industry to encourage affordable housing options

10 Increase 'as-of-right' codified planning approvals

## 7. Small business

Victoria's building and construction sector is a small business sector, with approximately 98 per cent of the sector comprising of small businesses. Considering the significant degree building and construction contributes to the Victorian economy, it is imperative that the State Government continues to support small businesses to grow and flourish.



Red tape is an inhibitor to business productivity and growth and this is no less true for small businesses, which cannot absorb the costs of doing business as much as larger businesses. Therefore, it is essential that the State Government continues to keep levels of business red tape low. As discussed before, a prominent example of red tape in the building and construction sector are the restrictive planning delays enacted by local councils, which fuels unnecessary business costs. According to the Planning Permit Activity Annual Report: 2016-17 by the Department of Environment, Land, Water and Planning, the average gross number of days it takes for a final outcomes is 125, and only 62 per cent of applications are completed within the required 60-day time frame – down from 64 per cent the previous year. While Master Builders commends the State Government's plan to allocate \$14.7 million to Smart Planning to reduce permit requirements and simplify the planning scheme, there is still more that can be done to streamline the planning process.

It is also important that taxation on small builders is at a level that does not constrain building activity. With Victoria experiencing greater population increases, housing supply must meet this new demand. Excessive taxation on residential building activity not only reduces the number of houses built, but also results in costs being passed on to consumers. This is particularly undesirable in an environment where housing affordability remains an issue.

Payroll tax is one notable example of a tax that constrains business growth. The payroll tax is in essence, a tax on employment and acts as a disincentive for small businesses to expand their workforce. Master Builders welcomes the State Government's decision to lift the payroll tax threshold to \$650,000 and decreasing the tax rate to 2.425 per cent for regional businesses. Nevertheless, a threshold of \$650,000 remains too low for small to medium size businesses, which pay wages that amount to a level far exceeding this threshold. Therefore the State Government should continue to review and adjust business tax burdens in future policy planning.

### Recommendation

11. The VBA increases the number of its proactive building inspections each year – and the Government holds the VBA to account
12. Support the establishment of the State Building Inspector (in the VBA) as recommended by the Victorian Cladding Taskforce
13. Consider means by which greater education and information about the significant changes to legislation and regulations can be provided to industry and consumers



## 8. Implementation of a Cross-Border Commissioner

Many builders that operate along the border between Victoria and South Australia and New South Wales experience a number of red tape burdens that relate to having to deal with two state governments and two local councils. Consequently, this places undue cost on these builders and prevents business growth.

Master Builders commissioned a report in 2015 titled *Cross Border Region* (Cross-Border Report) which detailed some of the issues that affected builders and trades people that work on both the Victorian and New South Wales border. It noted that cross-border issues arise with regards to Home Warranty Insurance, where cross-border builders are required to make separate applications for it. In addition, different eligibilities and warranty insurance thresholds also apply, which adds further complications.

Cross-border issues are also seen in trade registrations, where trade contractors in NSW require a license to sub-contract to builders, whereas this is not a requisite in Victoria. This creates a dilemma for interstate labour mobility, where trade contractors that work in Victoria cannot cross the border to work in NSW. The degree of this problem can be seen in the following numbers:

- In Victoria, there are only 2000 registered trades people
- Compared with 40,000 in NSW and 46,000 in QLD

As such, the creation of a Cross-Border Commissioner for Victoria is needed to specifically deal with the plethora of cross border issues that exist in the building industry. The concept of a Cross Border Commissioner has already been adopted by states such as NSW. NSW currently has had a Cross Border Commissioner to support businesses, organisations and residents in border communities since 2012 and has already successfully signed agreements with both Queensland and the ACT to resolve cross border issues. Indeed, the success of the NSW Cross Border Commissioner provides a strong business case for Victoria to have its own Cross Border Commissioner.

### Recommendation

19. Appoint a Cross-Border Commissioner for Victoria.

## 9. Safe workplaces

Health and safety needs to be a central focus on each and every construction site. This is best achieved with a positive, rather than punitive approach, to managing safety issues and solving safety problems.

There can be no scope for the misuse of workplace health and safety laws for industrial relations agendas.



There should be an efficient, modern and comprehensive workers' compensation scheme, balancing the interests of employers, employees, principal contractors and host employers.

In August 2017 WorkSafe put forward a legal opinion that WorkSafe Inspectors could not enforce Safe Work Method Statements (SWMS) under the OHS Act by stopping work unless there was an immediate risk to health and safety. The OHS Regulations (Regulation 327) explicitly requires SWMS to be produced for High Risk Construction Work (HRCW) and that work must be performed in accordance with the SWMS. The Regulations include that where work is not performed in accordance with the SWMS that work must stop. Master Builders considers WorkSafe's position to be legally inaccurate and seeks Government commitment to look at the issue.

The campaigns and activities of WorkSafe should be focused on education and prevention. For example, guidance materials and modern information could be provided to deal with new and emerging methods of construction. In 2017 WorkSafe undertook more OHS prosecutions (103) than all other OHS regulatory authorities in Australia combined. WorkSafe has acknowledged that 81% of their prosecutions have been reactive (i.e. following serious injuries or fatalities). Master Builders has been urging WorkSafe to engage in more education and awareness so as to improve safety outcomes and reduce the need for reactive prosecutions.

Victorian employers have not received a reduction in WorkCover premiums since 2014-15. Injury rates have reduced year on year to record low levels. Employers should be seeing the benefits of improved safety outcomes through reductions in their premiums. The WorkSafe scheme is currently 119% funded and there appears to be ample scope for premiums to be reduced.

### Recommendations

20. Require WorkSafe to enforce SWMS
21. Require WorkSafe to proactively educate industry .

## 10. Fair workplaces

An efficient and effective subcontracting system is at the core our industry's productivity. The rules around independent contractors' must continue to operate in a way that preserves this system. This is of particular relevance given the potential breadth of the *Labour Licensing Bill 2017*, introduced into Victorian Parliament late last year.

More broadly, the issue of skill shortages in the building and construction industry is one that includes the need to address demand side factors. We note that this is something that was recognised in the Victorian Skills Commissioner's October 2017 report, *Rebalance and Relaunch – Supporting Victoria's economy by enhancing apprenticeship and traineeship pathways as a mechanism for skilling the future workforce*. Master Builders endorses the major recommendations of the report, including the need to build a culture that supports employers who invest in apprenticeships.



Master Builders opposes in the strongest terms, the Andrews Labor Government's intention to introduce industrial manslaughter to the *OHS Act 2004* if re-elected. For Master Builders and its members, workplace safety is a key priority and will therefore support any initiatives that genuinely aim to increase safety in the workplace. However, the Government's proposal to introduce industrial manslaughter will not increase safety in the workplace. On the contrary, it is an ideologically driven proposal that is unfairly punitive to the builder (whom the great majority are operating as small businesses), and impractical in that enforcement of the law is done after a death or serious injury, rather than before it.

There is no practical reason for introducing industrial manslaughter when criminal offences like manslaughter already cover workplace deaths. In addition, Section 32 under the *OHS Act 2004* which outlines the offence of reckless endangerment already provides prosecution for negligence in the provision of workplace safety. This is a more proactive provision than the Government's proposed industrial manslaughter provision because the offence is committed whether or not harm is caused (and is therefore safety-focused). It is also more all-encompassing because unlike the proposed industrial manslaughter provision, the offence of reckless endangerment can be applied to 'any persons,' not just the builder, which allows for greater accountability towards the adherence of safety across the worksite.

The notion that industrial manslaughter is needed to improve workplace safety contradicts the record low injury rates that Victoria has achieved every year for the past five years. It also contradicts the fact that the number of workplace fatalities is currently half of what the levels were twenty years ago. This shows that workplace safety in Victoria is in fact, improving and is a result of effective enforcement of the current OHS laws, as well as overall improvement in industry standards.

Rather than introducing ideologically driven legislation such as industrial manslaughter to the OHS Act, it is far more logical to effectively clarify and enforce the current OHS laws that exist as they are more proactive, practical, and most importantly, safety-focused.

### Recommendation

22. Industrial manslaughter and wage theft should not be introduced in the OHS Act
23. Preserve existing legal arrangements for genuine independent contracting.
24. Security of payment

