

13 December 2013

DOC-13-MM-339

Mr. Lyndon Rowe
The Economic Regulation Authority
PO Box 8469
PERTH BC WA 6849

Dear Lyndon,

Micro Economic Reform Inquiry

Please find attached a copy of Master Builders' submission to the Inquiry into Microeconomic Reform in Western Australia.

Our submission focuses on:

1. State infrastructure planning
2. Taxation revenue
3. Red tape
4. Builder and trade licensing
5. Safety harmonization
6. Apprentice training
7. Deregulated trading hours
8. Planning reforms
9. Local government
10. Housing indemnity insurance

Please contact the undersigned should you have any queries or require additional information.

Yours sincerely,
Master Builders Association of WA

Michael McLean
Director



**ECONOMIC REGULATION AUTHORITY
INQUIRY INTO
MICROECONOMIC REFORM
IN
WESTERN AUSTRALIA**

Master Builders Association of Western Australia Submission

1. Introduction

This submission is made by the Master Builders Association of Western Australia.

Master Builders is the pre-eminent building and construction industry employer representative group in Western Australia.

Master Builders was formed in 1898 and registered in the Registry of the Western Australian Industrial Relations Commission (WAIRC) in 1904, and is one of the oldest employer associations with a continuous registration in Western Australia.

Our membership comprises over 1,600 national commercial builders, state-based commercial builders, specialist commercial sub-contractors, residential builders and sub-contractors, regional builders and sub-contractors, suppliers, kindred employer associations and government agencies.

Our membership operates throughout all of Western Australia and we have regional offices located in the major centres of Albany, Bunbury, Esperance, Geraldton Kalgoorlie.

Our members carry out work in the commercial, residential, resource, civil and infrastructure sectors throughout the state.

2. Economic Contribution

The building and construction industry is a major driver to Western Australia's economy.

The Construction Forecasting Council forecasts the following value in residential, non-residential, and engineering construction activity in Western Australia from 2012-13 to 2015-16.

2012-13	2015-16
<u>Residential</u>	
\$10.35 billion	\$13.78 billion
<u>Commercial</u>	
\$5.8 billion	\$6.0 billion

The economic value of the construction industry contributes 10% to the Western Australian Gross State Product.

The building and construction industry employs about 9% of the Western Australian workforce or 144,650 persons as at August 2013. Of this number the Master Builders approximates about 50% work on construction sites throughout the state.

3. Master Builders Response

3.1 State Infrastructure Planning

In this section we provide comments on the role of the state government in the provision of infrastructure and issues which should be considered in this process.

3.1.1 Lack of Infrastructure Data Available

MBA welcomes the initiative of the ERA to address this issue which, in the context of the state's economic development and extra-ordinary growth, is very timely. Information about proposed state capital works projects beyond an 18 month timeframe is not currently available. The provision of regular information on future infrastructure needs for Western Australia would be of great assistance to industry practitioners. Any infrastructure strategy should be overseen by a State Infrastructure Council, overseen by a Minister for Infrastructure, comprising appropriate government and private sector representatives, to determine our infrastructure needs and establish priorities for the future.

One of the first tasks of the Infrastructure Council should be to conduct an infrastructure audit to assess the current state of our major infrastructure as well as any maintenance/refurbishment/upgrade requirements. The audit will need to be carried out in the context of WA's economy, population and demographics, both current and future. This will establish a reference point from which an assessment of our future infrastructure needs can take place. Particular attention must be paid to regional areas because the maintenance of a strong and vibrant regional community is essential for the ongoing economic health of Western Australia.

3.1.2 Fine-Tuning Role of Infrastructure Expenditure

Public sector infrastructure expenditure is an important part of the Western Australian economy and represents a significant share of the annual turnover of building contractors, especially in regional areas. The employment multiplier of infrastructure expenditure is very high (estimated at up to 25 jobs created per \$million dollars of expenditure). While a long-term vision is important in the development of an infrastructure program, there must be sufficient flexibility in the infrastructure spending to play a “fine-tuning” role in the state’s overall economic cycle. Provision of additional public infrastructure expenditure is a well recognised public policy weapon to “prime-pump” the economy during a period of economic downturn. While the focus should be long-term in nature, it should be sufficiently flexible to allow for short-term economic fluctuations and emergencies (eg natural disasters) and be adjusted according to the overall level of economic activity at any time.

3.1.3 Industry Capacity

Any state infrastructure analysis should not only focus on the “demand side” by addressing and prioritising the state’s infrastructure needs. The infrastructure expenditure must also focus on the “supply-side” and the capacity of the building and construction industry to meet these infrastructure requirements within a reasonable time frame. The expenditure must consider the availability of trade skills, building materials, apprenticeship training and manpower availability to ensure that the desired outcomes are realistic, deliverable and affordable. Should there be deficiencies in such things as skilled labour which might prevent the outcomes being achieved, provision should also be made to remedy these matters in an effective manner and hence enable the objectives to be achieved.

3.1.4 Underlying Principles

New state infrastructure programmes must be underpinned by several key principles, namely safety, sustainability, maximum private sector involvement and an industrial relations environment that is conducive to an effective and timely completion programme.

(i) Safe Delivery

In recent years the Master Builders Association has devoted considerable resources to the implementation of safe work practices on building and construction sites in Western Australia. Over 30,000 persons have participated in MBA’s safety induction training and improved on-site safety awareness aims not only at saving lives and injury prevention but can also improve productivity and lead to a more efficient infrastructure delivery program. Infrastructure procurement/pre-qualification policies should be used to ensure contractors meet minimum safety performance standards.

(ii) Sustainable Projects

New infrastructure can contribute to environmental sustainability by providing innovative and energy efficient solutions to problems such as urban congestion, air, noise and water pollution. The involvement of the private sector, not only in the financing of infrastructure projects, but in the design, project management and construction phases will optimise the delivery of new sustainable capital works projects.

Master Builders previously commented on the deteriorating state of traffic congestion on Perth's major arterial roads, especially during peak hour periods. This issue is particularly relevant to the building and construction industry as contractors and suppliers move from one site to another during the course of the day. "Time is money" as they say so finding ways to reduce traffic congestion has enormous benefits to the building and construction industry. As Perth has evolved to become "car" dependant, finding ways to get more cars off our already congested road-ways will be a big challenge and require some innovative solutions. We appreciate that some of these solutions may not be popular in the short run but will be accepted as the norm in the long term.

State infrastructure needs to develop a clearly defined and transparent "sustainability" policy which is practicable and affordable.

(iii) Budget Sustainability

The fiscal constraints facing the state government will limit expansion in the provision of state infrastructure in the future. While our medium term economic outlook looks sound, prudent economic planning must also consider alternative private sector financing methods to ensure a continuing strong programme of infrastructure provision particularly in the regional communities of Western Australia. Many parts of rural Western Australia lack the social and physical infrastructure to service and build local communities which are essential for the long-term economic health of the State, and which complement the large investment programmes being undertaken in mining and resource development. Innovative financial packages involving the private sector including for example, the use of private superannuation funds could be developed to finance essential infrastructure projects and take the burden off the public purse.

(iv) Suitable Industrial Relations Climate

The establishment of an industrial relations framework that is conducive to attracting a broad range of building contractors to major infrastructure development should be another core element of an infrastructure strategy. Historical industrial relations experiences with major building/infrastructure projects in Western Australia should reinforce the need to foster and maintain an industrial relations climate that facilitates the completion of major projects on time and on budget for everyone's benefit. As the client

of these projects, the government needs to support contractors dealing with unreasonable union claims and irresponsible behaviour.

The state government would be prudent to follow the Abbott government's lead in re-establishing an Australian Building and Construction Commission to ensure that unlawful industrial relations practices are effectively dealt with.

3.1.5 Inter-Governmental Approval Processes

More efficient planning and approval processes are required to ensure the efficient delivery of new infrastructure. There are numerous federal, state and local government departments and/or agencies which a developer/contractor is required to inform, consult with, obtain permission from, or seek the approval of, when providing new infrastructure. This process could be expedited by the establishment of a "One Stop Shop" to assist new projects through the maze of multi-tiered government approval processes.

3.1.6 General Comments

There is ample evidence to illustrate that the proportion of GDP to government funding on infrastructure has declined markedly in recent years. This decline is particularly critical in a geographically large state like Western Australia and will need to be dramatically reversed to cater for our growing and ageing population.

Recent information published by the Western Australian Planning Commission (Directions 2031 and beyond) provided population projections for up to 2056. This demographic profile is important as it provides one indication of emerging infrastructure requirements, particularly in the areas of education, health and community services. Some of the Report's main conclusions which will determine, in part, our infrastructure requirements are:

- By 2031, Perth's population will rise to 2.2m and by 2056 to 3.5 million
- There will be a 43 per cent increase in the population located outside the metropolitan area by 2031
- A much greater proportion of our population will be in the 65 years of age and over category

In addition to WA's population being one of the fastest growing of all Australian States, there is also a need to service our key export industries by the provision of modern and efficient infrastructure in our major regional centres.

Transport, roads, and a high standard of social infrastructure are required to facilitate the economic and social development of these regional communities. High quality infrastructure is also essential to attract skilled workers to these remote locations.

An extensive public works/capital works expenditure program often provides the “bread and butter” for building contractors and suppliers in regional areas. A healthy expenditure program is important for the ongoing viability of local builders and sub-contractors in these areas. It is therefore vital to ensure the tendering/contractual requirements are reasonable and not too onerous to maximise the involvement of local/regional contractors to maximise affordability.

The funding and delivery of new infrastructure will be a major challenge in a geographically large state like Western Australia. Master Builders is willing to assist the government with the development and implementation of this infrastructure programme including our participation on the Infrastructure Council that we propose.

To ensure the state’s infrastructure programme is not derailed during the four year political cycle, it would be prudent to ensure that political parties were obliged to process their visions and policies through a body like the Infrastructure Council rather than announcing spontaneous policies during the hype of an election campaign. Some accountability in politicians making commitments in spending taxpayer funds would be beneficial and welcome.

3.2 Taxation and Government Revenue in Western Australia

Master Builders recognises and appreciates the effect of a declining return to Western Australia of the GST by the Federal Government on the State Budget and limitations that confront future State Budgets and ability to fund state services and state infrastructure.

Master Builders does not support a broadening of payroll tax in any way as it is a penalty tax on employing people. Ideally, Master Builders says the tax ought be scrapped entirely though we appreciate a loss of just over 12% of the State Budget income is unrealistic in the absence of a greater and more fairer return of GST to the state.

Several sectors of the Western Australian economy are struggling, particularly retail, for various reasons. Any increase in payroll tax simply translates into decisions by employers to reduce labour costs with reduction in employee numbers and/or employee work hours as an easy but obvious choice. A payroll tax increase will be counter-productive.

The proposition that payroll tax be increased in application and/or quantum to offset any increase or support a reduction in land transfer tax is a complex issue and ought not be dealt with in a truncated time line. Any gain from an increase in payroll tax application would likely be undermined by job losses meaning fewer people could

afford to buy existing properties with a reduction in payroll tax and land transfer tax. A net loss to the State Budget would follow. A Risk Impact Statement is essential in any consideration of this issue.

A copy of Master Builders Australia's draft position statement on land tax versus stamp duty is attached.

3.3 Reducing the Cost of Complying with Red Tape

Master Builders in its initial submission to the ERA on Microeconomic Reform advanced the proposition that any new proposed state legislation ought be subject to a Regulatory Impact Statement (RIS) that assesses the effect on all stakeholders as well as costs. Master Builders reaffirms that position.

By way example of how the introduction of new government regulation can seriously, and adversely, impact on industry is the major change to the Western Australian building laws in 2012 that resulted in a massive drop in new house starts in this state. A reduction of 42% in new dwelling approvals in April 2012 due to new approval procedures provides a clear demonstration of what can happen when sufficient rigour is not applied in the legislative development and application process.

The consequences of that poor imposition of a new regulatory framework caused serious economic harm to the Western Australian economy as new residential starts fell away, work levels dropped in the residential sector and housing stock was not built to meet supply, notwithstanding, the additional 83,000 persons to the state's population in 2012.

Such outcomes are to be avoided in future.

3.4 Product Markets in Western Australia

Licensing in the building industry in Western Australia is limited compared to other states.

To carry out work as a builder in Western Australia a person must be approved by the Building Services Board to be either a building practitioner or building contractor where the work is more the \$20,000 in value and a building permit is required. This is a requirement under the Building Services (Registration) Act 2011.

Oddly, the Building Services (Registration) Act retained a limitation on the geographical application of its antecedent legislation, the Builders Registration Act 1939, which essentially was limited to the South West Division of Western Australia as prescribed by the Land Administration Act 1997, and certain prescribed town sites in Western Australia.

Master Builders see no merit in retaining this restricted geographical application of the legislation and has already approached the Western Australian government to scrap this anachronistic provision.

The benefit in scrapping this provision in Master Builders' submission outweighs the cost of introducing it. The benefits are manifold and include but are not limited to

better consumer protection, better public safety, improved safety standards in construction and compliance with building codes.

Whilst Master Builders calls for the extension of the Building Services (Registration) Act 2011 to all of Western Australia, it ought not be construed as Master Builders advocating for the imposition of more government red tape and regulation as we do not. This position is considered and in the context of this issue and is made having regard for the Compensation Principle.

Master Builders is also supportive of there being greater differentiation in the classifications of building practitioner to recognise the different types or categories of construction work undertaken by builders. This is an issue we are currently pursuing under the National Occupational licensing Initiative.

3.5 Trades Licensing

The licensing of various trades and accredited occupations has been the subject of major federal review under National Occupational Licensing initiative since 2008, though its momentum in recent years has faltered as various state governments identify decreasing benefits from going down this path. It appears the Compensation Principle when applied to the National Occupational Licensing proposal has shown the cost benefit analysis to offer few benefits in comparison to the cost of introduction. As this major federal initiative was primarily based on the principle of mutual recognition of various licensed trades and occupations between states and territories, the costs associated with establishing a federal bureaucracy to administer the scheme and additional costs to state and territory governments as well as persons caught up by the scheme offered little meaningful benefit.

This is a major consideration to Western Australia as the premise of this former federal government initiative was to allow greater skills mobility between the eastern states and appeared to be eastern states centric only.

The perceived benefits to Western Australia are limited as there are only currently two licensed trades in the state building and construction industry which are plumbing and electrical. Painters are required to be registered with the Building Services Board if they carry out work over \$1000, or are a nominated supervisor for a painting contractor with registration limited to the south west region of Western Australia. Registration is not a licence as per plumbing or electrical, as painters without registration can work as a painter for a registered painting contractor. Again, Master Builders sees no reason to limit the scope of application of painter registration to the south west region only.

The limited number of licensed trades in Western Australia does not act as a barrier to skilled workers coming to Western Australia and seeking/gaining employment in their trade. Arguably, it is a benefit so long as the workers are skilled in their trade. As a result, the main pier of support for National Occupational Licensing of skills transportability across state/territory borders has little impact in Western Australia as this state requires intrastate skills mobility to service resource projects/sites and limited trades licences presents few barriers to skilled trades coming west.

Master Builders does not advocate for the extension of licensing trades in the building industry at this time in Western Australia as consideration must first be given to how a trades licensing system would operate, an effective transition arrangement to prevent a loss of skilled but unlicensed workers from trades and the benefits to be derived of introducing licensed trades which is more than just consumer protection alone. For example, will licensing of trades result in greater apprenticeship completion rates in the non-licensed trades?; and what is the experience in other states where trades are licensed? There has been no cost benefit analysis carried out on this matter, as we understand, as it affects Western Australia. The question is complex and Master Builders has an open mind on the subject but we recommend an in depth review be conducted by the Western Australian Government on the benefits of the pros and cons including conducting a Risk Impact Statement (RIS) of expanding trades licensing, and to what extent, before any decision is made to do so or not.

The licensing of builders and building related occupations is currently the subject of a COAG committee. This is the most appropriate forum to determine this issue for the time being.

The Building Commission is currently analysing the establishment of a tiered registration regime for builders. This is the appropriate consultative forum to process this issue.

3.6 Supplementary Issues

3.6.1 Occupational Safety and Health Harmonisation

Master Builders is not an advocate of the harmonisation of occupational safety and health in Western Australia as part of the federal Occupational Health and Safety exercise and we have not been since 2008.

Whilst Master Builders supports harmonisation between the federal model OSH legislation and the state Occupational Safety and Health Act 1984, as far as possible, we do not call for a slavish approach, rather, harmonisation that benefits safety and stake holders in Western Australia, where appropriate. Our view is, much of the federal OSH harmonisation exercise fails these tests.

Similar to National Occupational Licensing the driver behind a federal OSH harmonisation exercise was to have a one size fits all approach to safety across all state and territory borders. For national companies it makes eminent sense, but this premise falls down badly in Western Australia given few local state based businesses trade across state borders. This assertion was strengthened in April 2012 when the Victorian State Government issued a Risk Impact Statement (RIS) on introducing the federal OSH harmonisation in that state and at page 2 of the RIS found less than 1% of Victorian businesses operate in multiple jurisdictions. Master Builders argues there will be a similar outcome in Western Australia.

We say the so called economic benefits put forward by the then federal government in 2008 as underpinning its OSH harmonisation initiative will not be realised in Western Australia. The federal government also issued a RIS in support of the federal OSH harmonisation exercise that foreshadowed national savings of between \$1.5billion - \$2billion per annum over the following decade ending in 2018 but no economic break down was provided for any state or territory making it impossible to assess any notional savings for Western Australia. Adding to Master Builders concerns on this point is the Victorian government RIS of 2012 revealed major costs to that state's industry rather than any savings and a reduction on current state safety standards.

Master Builders concludes there will be a similar outcome in Western Australia as foreshadowed by the Victorian RIS. Master Builders is also aware the Western Australian Government has undertaken a RIS on the impact of introducing the federal OSH harmonisation model in this state. That RIS has not been made public at this time but we speculate a similar outcome to Victoria.

In addition, a fundamental question arises in connection with the introduction of the federal OSH harmonisation exercise on Western Australia and that is what benefits arise to Western Australia, or put another way, how does the Compensation Principle apply? That has not been answered in this exercise but Master Builders points out that since the OSH Act 1984 was introduced in 1988 in Western Australia, injury frequency rates have dropped 73% in this state. There was no argument put forward by the former federal government about how the federal OSH harmonisation exercise will actually improve safety standards and KPIs in Western Australia over and above what the current state legislative model is delivering now and has delivered to date.

What is telling also against the federal OSH harmonisation exercise is a submission by WorkSafe WA in 2008 to the federal government on this exercise which at page 5 said:

"We do not agree with the premise taken within the RIS that the significant upfront costs involved with the proposed model WHA Regulations will be outweighed by the resultant significant upfront implementation costs. It is our view that the identifiable potential benefits are not sufficient to out-weigh nor even off-set the costs associated with the introduction of the proposed WHS Regulations.".....

".....Our general observation is that the model WHS Regulations impose an increase in administrative activities which in themselves do not deliver safety benefits."

The Compensation Principle is clearly not met on the above extract from the WorkSafe WA submission and little has changed since the 2008 submission was made.

Further, a very recent development has seen the new Federal Government ease restrictions allowing national employers that trade across state borders to self insure under the federal Comcare scheme. This initiative ought accommodate the argument that national businesses can, if they choose, apply to be covered by one national safety regime and attract the efficiencies and cost savings by doing so. As that is the central outcome pushed for national safety harmonisation, that outcome will be achieved by this recent Federal Government decision.

3.6.2 Priority Start Apprentice Policy

The Western Australian Government has a Priority Start Apprentice Policy that seeks to reward commercial builders who employ local building industry apprentices. This Policy and its previous iterations have been in place for at least 3 decades and is a Policy Master Builders supports.

The purpose of the Policy is to recognise those commercial builders that engage local building industry apprentices as a consideration in the tender process and in awarding a contract by Building and Management Works (BMW) as opposed to builders who do not engage building industry apprentices. Regrettably, the Policy does not extend to state government trading corporations at this time as their respective governing legislation does not provide for this intervention by government Policy. Master Builders recommends the legislation for state government corporations be amended to provide for this Policy to have state government wide application.

Master Builders says this Policy meets the Compensation Policy. The Western Australian government has retreated from training trades apprentices since the early 1980s as various State Government Departments and agencies have either been closed or privatised in some way. Examples are the closure of the State Government Heavy Engineering Works, closure of the Midland Yard Rail Sheds, closure of building construction and maintenance sections in HomesWest, Building Management Authority, Western Power, Main Roads and so on.

In effect, the Western Australian Government has withdrawn from directly training apprentices training though in 2005 it sought to address that position by engaging a small number of building industry apprentices as an adjunct to the predecessor of the current Priority Start Policy. Master Builders supported that decision and says the State Government ought retain this small direct apprentice training model as an example to employers that it is willing to directly employ apprentices and not just shift all responsibility onto employers alone.

Given the major infrastructure works built by state government trading corporations such as Water Corporation, Ports and Energy corporations, Master Builders says the extension of the Policy to these entities will benefit skills training in Western Australia.

Master Builders concedes this Policy by itself will not, and never can, meet the skill training requirements of Western Australia. However, we have for many years said the Western Australian Government can do more in this area by rewarding builders who employ apprentices in that those builders will not be disadvantaged for doing so when bidding for State Government construction projects against builders who do not employ apprentices.

3.6.3 Deregulated Trading Hours

In our previous submission to this inquiry, Master Builders commented on some of the adverse effects of restricted trading hours on the efficient operation of the building and construction industry.

We reiterate our comments here.

A good example of where WA's trading hours are inconveniencing builders, contractors, home-buyers and other consumers is the regulation of hardware stores. Take Master Home Improvement stores as a case study.

Masters Home Improvement stores are the new entrant in the marketplace. Masters is a joint venture between Australia's Woolworths and the US home improvement chain Lowes. To date, it has opened four stores in WA and plans to open another three over the next 12 months.

The arrival of Masters provides more choice, convenience and stronger competition in the retailing hardware materials for home owners and the building trades.

In WA, retail trading hours are regulated by the Retail Trading Hours Act 1987. To be able to open early, when the building trade wants to pick-up their supplies and get to work, Masters must get a certificate from the head of the WA Department of Commerce confirming that it is a "domestic development shop" and it must only sell those goods that are listed in the Retail Trading Hours Regulations.

The regulated list of what a "domestic development shop" can sell gives rise to all sorts of inconsistencies and anomalies. The regulations:

- Allow the sale of light bulbs but prohibit the sale of light fittings
- Allow the sale of outdoor lighting but prohibit the sale of indoor lighting
- Allow the sale of kitchen sinks but prohibit the sale of dishwashers
- Allow the sale of wood-fire heaters but prohibit the sale of gas heaters
- Allow the sale of indoor television antennae but prohibit the sale of outdoor television aerials

The practical effect of WA's regulations is that Master Stores cannot open early because they sell both light bulbs and light fittings.

This is a crazy situation that does nobody any good. Builders and tradesman are inconvenienced because Masters is not open early enough. Masters itself says it can have more than 50 vehicles waiting in the car parks for the store to open. All of which reduces the productivity and efficiency of the economy. It is red tape gone mad.

Master Builders believe fixing the problem should be made a priority. Getting rid of this sort of red tape should be easy and uncontroversial. It is commonsense action that would be supported right across the community. If we can get rid of this sort of red tape then we can all get back to work – faster and smarter.

3.6.4 Industrial Relations Act

Master Builders has previously identified and raised with the Minister for Commerce several issues of concern we have in connection with the Labour Relations Legislation Amendment and Repeal Bill 2012.

Master Builders is at odds with some WA employer groups in that, unlike those, we do not advocate the handing over by the Western Australian Government of its private sector industrial powers to the Federal Government. We do so based on cogent reasons in that small employer members of Master Builders who are currently bound by the State Building Trades (Construction) Award 1987 will face increases in labour costs in redundancy pay, travel costs and higher wage costs under the federal Modern Building and Construction General On-site Award 2010. Master Builders identifies no good reason for this to happen and we have, as a matter of Policy, adopted a harmonisation, as far as possible approach, with the Fair Work Act 2009. This position also accords with Master Builders' position in connection with the Federal OSH harmonisation exercise.

A major weakness in the Labour Relations Amendment Bill is the lack of recognition of non-union enterprise agreement path ways and statutory individual agreement making instruments.

It is widely accepted that the private sector workforce in Western Australia is only about 10% unionised.

The current state Industrial Relations Act 1979 and the Amendment and Repeal Bill only provide for 2 types of workplace agreement under the state industrial framework. These are either an employer entering into an enterprise agreement with a union under the state IRLA 1979 to be approved by the Western Australian Industrial Relations Commission(WAIRC) or highly restrictive Employer/Employee Agreement (EEA) that must closely follow the relevant state award. In reality, EEAs offer little meaningful incentive for employers remaining in the state industrial relations system to take these up. That is why only about 130 EEAs have been approved by the WAIRC since their inception in 2006. Clearly, EEAs have been an underwhelming success and that was the intention when these were introduced by the former State

Labor Government in 2006 given they offer little flexibility outside a state award.

Only small private sector employers remain within the state industrial relations system who are structured as sole traders, partnerships and some family trusts which the WAIRC in its 2006 Annual Report suggested was about 30% of the Western Australian workforce.

On the assumption the 2006 WAIRC estimate is correct, that figure represents a sizeable portion of the state's workforce and when linked to the small union cohort of the private sector state workforce the need for greater flexible workplace arrangements by small state based employers cry out. Master Builders understands the lack of needed flexible state workplace arrangements in the Amendment and Repeal Act 2012 is due to a lack of calls by small employers for this. Master Builders does not portray this as some acceptance of the current inflexible system, rather, a lack of understanding of the opportunity of what the small business sector could ask for. Silence ought not be misconstrued as acceptance of the current and highly restrictive state workplace arrangements.

The absence of access to genuine non-union enterprise agreements and/or some form of statutory individual employment contract of employment, underpinned by an appropriate No Disadvantage Test, within the state industrial relations framework condemns small state based employers to remain constrained by inflexible awards.

Master Builders says this is thinking more akin to the last century when work was performed on a regular Monday to Friday basis, retail shops closed at 12.00 midday on Saturdays, no shops opened on Sundays, except the corner delicatessen and petrol stations had similar opening hours with roster stations open at night and on weekends. Such restrictive work place arrangements are clearly out of step in the 21st century.

Why the Amendment and Repeal Bill seeks to retain a 1950s approach to workplace arrangements is at odds with the Western Australian Government seeking to introduce microeconomic reform.

Master Builders says the Western Australian Government must seriously look at freeing up the current inflexible state industrial relations system for small employers that remain with the state industrial relations framework.

3.6.5 Planning

In our view the major area which needs review is the planning system in Western Australia. In making these comments a distinction needs to be made between the need for regulation on the one hand, and the efficiency with which the regulation is administered on the other. Many of the complaints of our members relate to the latter category – the need for the regulation is acknowledged, but the speed at which it is administered is the major area of dissatisfaction. However in the area of planning the issues of

concern relate to both the need for certain regulation and the speed of implementation.

Master Builders is aware of research undertaken by the Institute of Public Affairs in which it stated excessive land regulation has resulted in an increase of over \$90k in land prices in recent years. Such consideration probably underpins the State government's second stage of planning reforms currently being considered.

Our suggestions to improve the efficiency of the planning system are based on the principle of simplicity. Planning approval should not be needed for any single lot development. An "exempt" path should be available for new single lot developments which comply with the R Codes.

"Deemed approval" should be granted to proposals which are not responded to within statutory time periods by the Planning Commission. Alternatively there should be agreed time frames with the stakeholders for progress of a planning approval application. Private certification of planning approvals should be implemented to maximise efficiency gains.

Greater transparency and accountability should occur in the process. All agencies involved in the planning approval process should be subject to published key performance indicators (KPI). We endorse a "whole of government" approach to the planning approval reform process with all relevant agencies being subject to the agreed KPI's.

Greater priority should be given to major development programmes and involve the empowerment of expert panels to deal with complex or non-conforming development approvals. This could also require additional resourcing of the planning agency and the appointment of an Independent Planning Ombudsman to reduce the need for mediation and appeals. There may also be a need for substantial cultural change within the Department of Planning and at all local government level. Many of the blockages and inefficiencies are endemic and will take significant effort to reform. One of the difficulties in reforming the planning regime, however, is the overlap it has with several government departments such as Environment, Local Government, Transport, Health, Housing and Infrastructure. This makes a holistic approach more difficult to achieve.

An effective State Infrastructure Plan or Strategy must be developed to better integrate land development and infrastructure provision. A useful starting point is to develop an accurate Urban and Rural Development program to gather comprehensive land use information. In addition there is a need for better planning of high growth regions.

There is a need for all government agencies involved in the planning process to have measureable time lines for the achievement of outcomes. Many government agencies which are consulted as part of the planning approval process do not have time lines imposed on them for consideration of the merits of the proposal.

3.6.6 Local Government

Another area of extreme concern to Master Builders relates to the inefficiency and lack of consistency between, and even within, local government authorities (LGA's), particularly in relation to the interpretation of the R Codes. We are also concerned about the poor turnaround times of a number of LGA's in the processing of planning and building approval applications. This performance may be improved if all non-compliant applications were immediately returned to the applicant and priority given only to compliant applications. We believe that all LGA's should be required to publicize relevant KPI's in this area on a regular basis.

Master Builders is also concerned about inconsistency in the treatment of tenders by local authorities for new building work. The lowest priced tenderer is not always assured of winning the tender and many LGA's engage in practices which are not consistent with the Tendering Code of Practice. Greater awareness by LGA Councillors and staff of these requirements is necessary.

Only a minority of Shires use an electronic system for the processing of applications for building licences. Most require hard copy. There are differing requirements even among electronic based authorities.

Master Builders believes that State and Local government authorities should develop a more "risk based" approach with the level of regulatory requirement being aligned to the type of development being proposed.

The state government's reform agenda in this area is welcomed. However it must be implemented to ensure consistency in town planning schemes as well to maximise efficiency gains.

3.6.7 Building Act & Private Certification of Building Applications

The introduction of the Building Act in 2011, after a troubled implementation phase, has created greater efficiency in the building permit approvals process. There are other improvements that could be made, including rationalisation of the involvement of Emergency Services (previously FESA) in the commercial sector approvals process. Implementation of full private certification of building permit approvals without the involvement of local authorities would also be a further improvement.

The private certification of planning approvals is also supported as it would greatly improve the planning approvals process.

3.6.8 Housing Indemnity Insurance

Western Australian's current system of housing indemnity insurance needs wholesale "root and branch reform".

In a number of general points there is general dissatisfaction in the industry with the instability and uncertainty caused by fluctuation in the number of insurers

who have offered HII in Western Australia. Over the last 16 years builders have on several occasions experienced “crisis” levels of interruption to their business activity and cash flow caused by the sudden exit of an insurer from the market resulting in an inability to obtain this mandatory insurance.

There is general resentment among builders over the ability of insurers to act as a “defacto” licensing body and determine the type and volume of work that a builder can take on. Building contractors licensed by the Building Commission are effectively regulated by another private sector agency which can dictate the volume, type, timing and amount of building a registered builder can undertake. This is made worse in the current insurance market where only two providers of HII are available. For builder turnovers over \$10m per annum, a QBE monopoly effectively exists. So, should QBE decide to withdraw from the market, the housing industry would be thrown into chaos. Recent 40% across the board premium increases by QBE, with another 40% to follow, should also be noted for its impact on housing affordability.

Builders have little or no choice but to accept any restrictions imposed by insurers, including large increases in insurance premiums, bank guarantees or changing the structures of their businesses. In many cases, builders are effectively being asked to underwrite the risk of the insurer.

Thirdly, there is a general cynicism that insurers take no risk with this product which delivers little benefit to consumers. With a maximum last resort payout of only \$100k (regardless of contract value) insurers usually also have access to a director’s deed of indemnity against personal assets. Builders argue that they will be personally liable anyway should a last resort claim be made and question whether the premium is pure profit to the insurance company. Given Western Australia’s low claims experience it appears that Western Australian builders are subsidizing insurance losses in other states of Australia.

In addition, consumers are probably largely unaware that the maximum payout under a standard HII product is limited. In the event of a liquidation much of this could be used to cover liquidator or legal costs. Many consumers will be left largely out of pocket and will probably have to contribute additional funds to see their home completed by another builder.

With Master Builders having such a large membership it is not surprising that there are a range of views expressed as to what should be the future shape of HII arrangements in Western Australia. These options can be divided into several categories.

1. Move to a voluntary HII scheme as existed in Western Australia prior to 1996. This would require home buyers to do their homework on their builder’s credentials and experience. We note that the Tasmanian government introduced this arrangement recently with no adverse effects to our knowledge.

2. Restrict coverage of HII to all residential contracts covered by the Home Building Contracts Act; that is, up to a maximum value of \$500k. Supporters of this proposal argue that this would provide some minimum level of protection or at least give some security to those homebuyers who are most vulnerable. There is some merit in postulating that clients who enter into housing contracts above \$500k are in a better position to either assess or ascertain the risk of their builder defaulting.
3. Introduce a government scheme similar to the Queensland model where registration and indemnity insurance are linked and provided by the State Government, unlike the hybrid arrangement that currently exists in Western Australia where mandatory insurance is provided by the private sector but is not linked to licensing arrangements. The WA government, however, still provides some underwriting of the risk of larger project builders defaulting.
4. Introduce an industry funded “fidelity fund” arrangement which exists in the Australian Capital Territory, and is about to be adopted in the Northern Territory. Many builders who have in the past supported the establishment of a co-operative industry mutual fund see significant advantages of this type of arrangement; particularly that industry controls its own destiny and that any surplus funds can be directed towards the betterment of the industry through such initiatives as training or safety services.

Whichever model is proposed by the state government it is clear that there are significant problems with the current system, not the least of which is the state government liability should adversity occur. A system of insurance which relies on state government support to attract and retain the presence of private insurers is an undesirable situation, and has led to considerable instability and inequity in the market. While the first and fourth options have significant appeal to this organisation, options 2 and 3 may be more palatable to the state government.

There is also price discrimination in premiums charged by insurers and paid by large and small builders which may be based on financial capacity alone rather than other factors such as industry longevity, building quality etc. This adds a competitive disadvantage to pricing in the building industry for smaller builders whom, it could be argued, pose a lower risk to insurers than the collapse of a large corporate builder.

Builders also question the value of this insurance to consumers. Given Western Australia's favourable claims record in relation to other states, local consumers appear to be receiving little value for this cost. Benefits are limited and have been diluted over time due to rising costs. Benefits are only accessible as “last resort insurance” (which could be eroded by liquidator and legal costs). Costs of this insurance to the consumer are not limited only to premiums paid. Builders are pricing in a margin for the considerable “red tape” that they have to endure in order to apply for insurance and to comply with regular reviews by insurers. To some extent consumers are under a misapprehension that they will be fully

covered in the event of a builder's collapse, disappearance or death. However this is clearly not the case.

There are a number of anomalies in the scheme. For example, while an owner builder is not required to obtain HII as a condition of the building permit a professional builder building his own home is required to take out insurance and effectively insure himself!! In the builder's eyes he is paying money for nothing. Similarly there seems to be little or no reason for HII to be required for "off the plan" contracts where the construction risk is taken by the developer.

The state government has decided to underwrite the risk of both QBE and Calliden in the market in the short term until it decides what to do. This is not an appropriate use of taxpayers' funds.

3.6.9 Government Reviews and Inquiries

It is very frustrating from an industry perspective when a government decides to have a Review or Inquiry and then not publicize the findings and recommendations. Master Builders is often invited to contribute to these Reviews and Inquiries and, in the process, consults broadly with our members and relevant stakeholders. This can be a time consuming and resource intensive process. When the outcome of the exercise is not publicized by the Reviewer or Inquirer, for whatever reason (generally political), it is very frustrating and not a good use of resources from the various organisations that contributed. Governments should have an obligation to report the outcome of all of these Reviews and Inquiries.

3.6.10 Regulatory Impact Statements

Proposed new or amended legislation should always be accompanied by a Regulatory Impact Statement (RIS). This will serve to discipline governments to assess the cost impacts of their proposed legislation on the economy, stakeholders and the community/taxpayers. It is in the public interest for this process to be mandatory. The effects could well be less onerous new legislation and red tape!

Master Builders appreciates the efforts of the State Government to develop a more efficient economic process and economy.

Master Builders is happy to expand upon our submission if required. We look forward to the outcome of this Review.

Yours sincerely,
Master Builders Association of WA

Michael McLean
Director

Ref: Kim Richardson



MASTER BUILDERS
AUSTRALIA

DRAFT Position Statement on Land Tax vs Stamp Duty

November 2012

13-Dec-13

Land Tax vs Stamp Duty - Nov 2012.doc

Master Builders Australia Ltd ABN 68 137 130 182

building australia



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1 INTRODUCTION

- 1.1 This Position Statement is made by Master Builders Australia Ltd (Master Builders).
- 1.2 Master Builders is the peak national association for the building and construction industry in Australia.
- 1.3 Master Builders' primary role is to champion the interests of the building and construction industry, representing residential and commercial building, and engineering construction.
- 1.4 Master Builders has more than 33,000 member-companies with representation in every state and territory in Australia, the great majority of which, by number, are small to medium sized enterprises.
- 1.5 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.
- 1.6 Membership of Master Builders' represents 95 per cent of all sectors of the building and construction sector.
- 1.7 The building and construction sector accounts for almost 8 per cent of gross domestic product, and more than 9 per cent of employment, in Australia.
- 1.8 Owner-occupied housing and other property investments account for over two-thirds of the asset portfolio and wealth of ordinary Australians.

2 OVERVIEW

- 2.1 The State and Territory Governments impose stamp duties on conveyances (transfers of property), both residential and commercial.
- 2.2 At first look, stamp duties have a number of advantages (or, at least, appealing features for State and Territory Governments). These include simplicity of administration, and minimal avoidance.
- 2.3 However, stamp duties have a number of disadvantages. These include: inefficiency; inequity; volatility; and, the burden on buildings.
- 2.4 By contrast, land taxes do not tax capital development (that is, the commercial or residential structures constructed upon the land).
- 2.5 The Henry Tax Review (2009: 263) made a clear, and unequivocal statement recommending the abolition of stamp duties and their replacement (for revenue purposes) with a broadly based land tax:
 - 2.5.1 *“Ideally, there would be no role for any stamp duties ... in a modern Australian tax system. Recognising the revenue needs of the States, the removal of stamp duty should be achieved through a switch to more efficient taxes, such as ... land taxes.”*
- 2.6 Master Builders sees substantial commercial and economic merit in moving from the current stamp duty-based to a broad land tax based system of property taxation.
- 2.7 However, Master Builders support for such a transition is conditional on a number of factors, which must be delivered as an overall package (‘all or nothing’), with the State and Territory Governments give a ‘single undertaking’ to all of the elements, without exception.
- 2.8 Amongst the most important of these pre-conditional elements are any legislative et al changes to increase reliance on a broadly based land tax be:

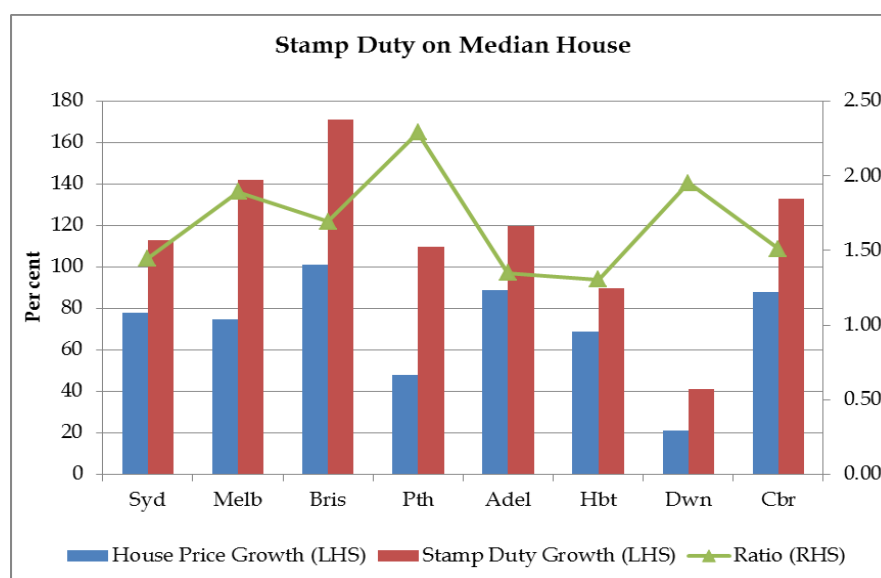
- 2.8.1 directly and formally linked to countervailing reductions in the stamp duties on impacted property; and,
- 2.8.2 occur in a progressive manner over a reasonable transitional period, with the 'grandfathering' of existing stamp duty/land tax payments on any given property asset.

3 STAMP DUTY

- 3.1 The State and Territory Governments impose stamp duties on conveyances (transfers of property), both residential and commercial.
- 3.2 Stamp duty is payable by the purchaser of the property
 - 3.2.1 based on the reported sale price
 - 3.2.2 which covers the value of both the land and any buildings/structures located thereon.
- 3.3 Stamp duty thresholds, rates, concessions et al vary between (and even within) the States and Territories. However, in broad terms:
 - 3.3.1 the average rate of stamp duty increased by around one third in the 12 years to 2005 (Henry, 2009: 252), largely reflecting the absence of tax indexation of scales to account for price inflation of property values;
 - 3.3.2 while the States and Territories generally apply a progressive rate scale for stamp duty (higher rates for more valuable property), the rates and the escalation of these rates varies considerably; as do
 - 3.3.3 concessional and subsidy arrangements (such as pensioner rebates, and first and new home grants schemes, respectively).

3.4 The implications of the interaction of lack of tax indexation of stamp duties, escalating stamp duty scales and house price inflation has meant

3.4.1 The growth in stamp duties revenues outstripped house price growth in all State and Territories, as the following chart demonstrates (Source of data: PC, 2010: 81).



3.5 As can be clearly seen, the rate of growth in stamp duties (on a median house for a non-concessional home buyer) exceeded that of house prices in all of the Australian capital cities over the period 1998-2003

3.5.1 with house prices rising by an (unweighted) average of 71 per cent over the review period, and

3.5.2 stamp duty rising by 115 per cent over the same period, or just over 1.6 times the rate of growth in house prices.

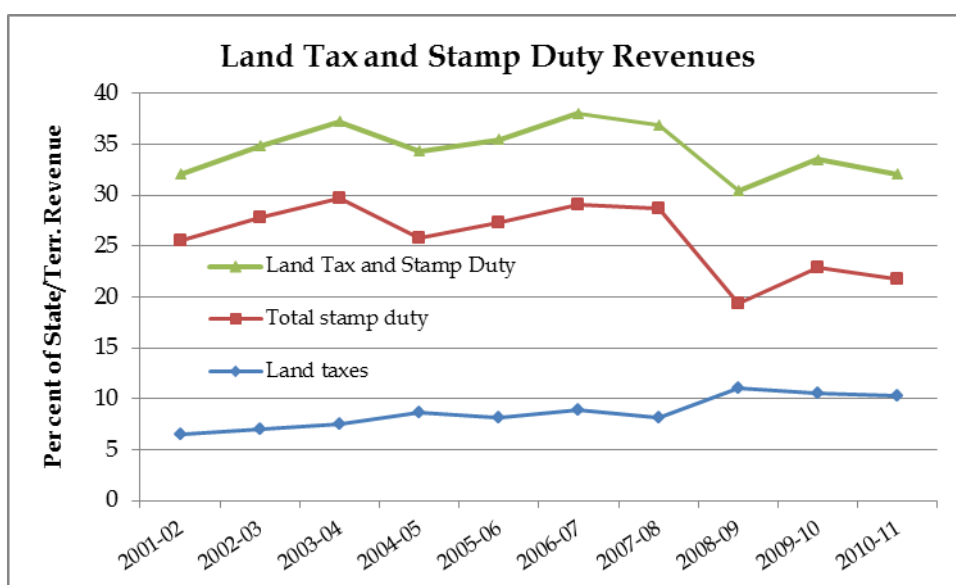
3.6 The highest ratios of stamp duty growth to house price growth were recorded in Perth (2.3 times), Darwin (2.0 times) and Melbourne (1.9 times).

3.7 Given the absence of meaningful structural changes in the stamp duty system in recent years, it is more than likely the general pattern reported above,

3.7.1 that is, of stamp duty growth outpacing house price growth by a clear margin,

3.7.2 has persisted between 2003 and 2012, and is likely to recur in the future.

3.8 Stamp duties and land taxes account for a substantial proportion of State and Territory Government revenue, as can be seen the following chart:



3.9 Stamp duty and land tax revenues averaged just under 35 per cent of their total revenue in the decade to 2010/11 (ABS, 2012),

3.9.1 ranging from a high of just over 38 per cent of State/Territory revenue in 2006/07, to a low of just over 30 per cent just two financial years later.

3.10 Particularly noticeable was the 9.3 per centage point fall in stamp duty revenue in 2008/09, only slightly offset by a 2.1 per centage point rise in land tax revenue in the same financial year,

3.10.1 reflecting deteriorating trading conditions in the housing market.

- 3.11 Absent any substantial upturn in the housing market,
 - 3.11.1 stamp duty revenues are likely to remain around their recent average,
 - 3.11.2 of just over 21 per cent of State and Territory revenues,
 - 3.11.3 substantially below their previous longer term average of just under 28 per cent of State/Territory revenues.
- 3.12 By contrast, State and Territory revenues from land taxes have been more stable,
 - 3.12.1 rising more or less monotonically from 6.5 per cent of State and Territory revenues in 2001/02 to average just over 10.5 per cent in the three years to 2010/11.
- 3.13 For State and Territory Governments, while
 - 3.13.1 stamp duties may currently account for a sizeable share of their revenue bases, they are more susceptible to swings in the housing cycle and thus more volatile, and
 - 3.13.2 land taxes constitute a smaller share of revenue bases, they are less vulnerable to the housing cycle, and likely a more stable and predictable revenue stream.
- 3.14 At first look, stamp duties have a number of advantages (or, at least, appealing features for State and Territory Governments). These include:
 - 3.14.1 simplicity of administration: stamp duties are easy to collect, being levied on the sale price which has to be reported to State Government's title deeds offices; and,
 - 3.14.2 minimal avoidance: stamp duties are difficult to avoid given the need for the property transfers to be reported to State Government title deeds offices.

3.15 Stamp duties have a number of disadvantages. These include:

3.15.1 (in)efficiency: stamp duties have a 'lock in' effect, by discouraging the transfer of property both per se and toward its most beneficial use – that is, leading to poor consumer decision making and sub-optimal utilisation of the housing stock.

3.15.1.1 A study by KPMG, a consultancy, (KPMG, 2010) found land taxes had low, and stamp duties had high, economic welfare costs per dollar of revenue raised

3.15.1.2 with stamp duties having 'efficiency' costs of between 4 to 5 times that of land taxes (KPMG, 2010: Table A).

3.15.2 avoidability: stamp duties are easy for home owners to avoid, by simply choosing not to buy or sell their property (which is related to the 'lock in' effect);

3.15.2.1 The Henry Tax Review (Henry, 2009: 255) estimated stamp duties as 'effective tax rates on cost of moving home',

3.15.2.2 finding rates as high as 83 per cent in Perth, 94 per cent in Melbourne, and 101 per cent in Sydney.

3.15.3 inequity: stamp duties tend to be borne by those who need (for reason of work or family reformation, following say divorce) to move;

3.15.4 volatility: revenues from stamp duties can be difficult to predict and volatile for purposes of fiscal policy and public administration; and,

3.15.5 burden on buildings: stamp duties apply to the overall property, which includes the land and any building and structures located thereon;

3.16 The Henry Tax Review (2009: 255) identified a number of adverse effects (sometimes called negative externalities) from stamp duties. These include:

3.16.1 the 'lock in' effects of stamp duty can mean people have to commute more/ further distances from their homes to their places of work, adding to transport pressures including greater demands on transport infrastructure such as roads and railways;

3.16.2 the 'lock in' effects can result in people renovating existing property, and/or staying in larger residences than they need or prefer, which can lead to adverse environmental consequences;

3.16.3 the 'lock in' effects can discourage labour mobility (recall the very high effective tax on moving in a number of the major capital cities), meaning higher unemployment in some areas and lower productivity in 'labour short' areas; and,

3.16.4 stamp duties amount to a major hurdle for younger people and families entering the housing market (by compounding housing affordability challenges), with attendant social costs.

3.17 While it may be difficult to estimate the 'lock in' effect of stamp duties on residential property owners (that is, the effect of stamp duties on the frequency of home relocations), the Henry Tax Review (2009: 257) observed:

3.17.1 around one-half of owner-occupiers have been in their current home for nine years or less;

3.17.1.1 with 18 per cent of owner-occupiers being in their current home for less than three years; and,

3.17.2 around one-quarter of owner-occupier have been in their current home for 20 or more years.

3.18 Taken as a whole, the Henry Tax Review concluded stamp duties:

3.18.1 were highly inefficient, distorting residential and commercial use of property;

3.18.2 encourage people to remain in homes when they may otherwise prefer to relocate, resulting in larger average house sizes, longer commuting times and reduced labour mobility; and,

3.18.3 are inequitable, imposing a greater burden on those who need to move more regularly (for example, for employment) than those who do not, and on reduce access to housing for aspiring, but credit-constrained, home buyers.

4 LAND TAX

4.1 Land tax is not a new idea: such taxes already exist and are applied by various State/Territory and Local Governments:

4.1.1 State Governments impose land tax on the unimproved (or site) value of land;

4.1.2 while local governments impose such taxes, in a similar manner, in the form of municipal rates.

4.2 The question, therefore, moves beyond whether or not to have land taxes, to how broad and deep should be land taxes.

4.3 The Henry Tax Review was critical of the then current manner (which has changed little in the intervening years) in which land taxes were designed and administered, largely reflecting the narrow base on which land tax was imposed:

- 4.3.1 In general terms, land tax is applied only to commercial land and investor-owned residential land,
 - 4.3.2 with land used for primary production, owner-occupied residential, and child-/aged care exempt,
 - 4.3.3 as are land holdings of the Federal, State and Territory Governments and charitable and not-for-profit institutions.
- 4.4 The exemption of owner-occupied residential land removes as much as 75 per cent of otherwise taxable land from the land-tax base (Henry, 2009: 261).
- 4.5 One consequence of this narrow base is higher rates of land tax are required to achieve a given land tax revenue objective,
 - 4.5.1 than would be the case if the taxable base was broader (ie fewer exemptions).
- 4.6 These higher-than-otherwise land tax rates are passed forward:
 - 4.6.1 by investor-owners of taxable land, in the form of higher rental and other charges to tenants; and,
 - 4.6.2 by commercial users of taxable land, in the form of higher prices for the goods and services produced on those sites.
- 4.7 The escalating rate of land taxes (where higher land tax rates are imposed on larger landholders)
 - 4.7.1 discourages investors from making investments in large-scale residential housing, thus resulting in an inefficient use of the existing land stock (especially that which is 'development ready').
- 4.8 The Henry Review (2009: 262) reported the aggregation effects of land tax on a large investor in residential property
 - 4.8.1 can amount to as much as 18 per cent of the rental income from a residential property

- 4.8.2 ranging from a low of 10 per cent in Perth, and 15 per cent in each of Brisbane and Melbourne, up to highs of 23 per cent in Hobart and 31 per cent in Adelaide.
- 4.9 Nevertheless, broadly based land value taxes have a number of advantages. These most important of these advantages concern its efficiency:
 - 4.9.1 the item being taxed (land) is immobile, and thus it is difficult to avoid tax (compared to more mobile labour and capital), and the tax does impact on how land is used, or how much of it is used.
- 4.10 Land taxes also encourage efficient capital utilisation of the land,
 - 4.10.1 as land tax per se, unlike stamp duties, does not tax, and hence discourage, capital development (eg the construction of buildings and structures) on the land.
 - 4.10.2 The Henry Tax Review observed: “... *land value tax does not apply to the value of a property attributable to buildings and other forms of capital improvements. This means that the land valuation does not rise if a building owner builds a better factory or a homeowner builds an additional family room.*” (Henry, 2009: 250)

5 DISTRIBUTIONAL IMPACTS

- 5.1 A key consideration for governments undertaking bold public policy reforms (especially shifts in taxation burdens)
 - 5.1.1 is the likely distributional impacts or, more plainly,
 - 5.1.2 who are the likely winners and the likely losers.
- 5.2 That is, which electoral constituencies will be made better or worse off by the proposed change(s).

- 5.3 Precise distributional impacts are inevitably the outcomes from specific reform packages,
 - 5.3.1 subject to exogenous factors such as, inter alia, the state of the economic, financial and housing cycles, and other aspects of the taxation system,
 - 5.3.2 and directed-design by governments to (at least attempt to) target the distributional impacts.
- 5.4 Nevertheless, some insight into the potential demographic and geographic impacts of a shift from stamp duties to land taxes can be drawn from academic studies (Phillips, 2012; Wood et al, 2012).
- 5.5 One academic study (Phillips, 2012) looked at the demographic-distributional impacts of the rebalancing of the stamp duty/land tax revenue mix legislated by the ACT Government in 2012.
- 5.6 Under the rebalancing,
 - 5.6.1 stamp duty rates will come down for transactions of residential properties priced around \$300,000 or below
 - 5.6.2 stamp duty rates will rise for transactions of residential properties priced above this figure
 - 5.6.3 with additional revenue coming from an extension of land taxes, administered through higher municipal-style rates (reflecting the ACT Government's dual Territory and local government functions).
- 5.7 To be clear: the ACT Government has not abolished stamp duty, and moved to replace the revenue with land taxes.
 - 5.7.1 rather, they have adopted a formula to reduce stamp duties and a formula to increase land taxes on owner-occupied residential property over time.
- 5.8 Looking first at family types,

- 5.8.1 the biggest winners from the shift from stamp duties to land taxes are likely to be 'couples with children' and 'single parent households'
 - 5.8.2 with the biggest losers being 'lone person households', while 'couple only households' are likely to 'break-even'.
- 5.9 Turning to the age distribution of households, based on the age of the head of the household,
 - 5.9.1 the biggest winners are likely to be 'younger households', that is where the head of the household is aged less than 30 or less than 50 years (generally the more 'housing mobile'),
 - 5.9.2 with the biggest losers being 'older households', that is where the head of the household is aged between 51 and 65 years and particularly aged more than 65 years (generally the less 'housing mobile').
- 5.10 The distributional impacts by income quintile (that is, by five income groups each accounting for 20 per cent of income earners)
 - 5.10.1 would likely see revenues from remaining stamp duties rise by 7 per cent, and from expanded land taxes rise by 11 per cent in real terms in the four years to 2016/17, with
 - 5.10.2 the increases slightly higher for those income earners in the top two quintiles (40 per cent of income) than for those in the bottom three quintiles (60 per cent income earners).
- 5.11 Finally, it should again be under-scored the academic modelling reviewed reflects potential distributional impacts of a particular tax design,
 - 5.11.1 and different anticipated distributional outcomes could be expected from different tax-shift designs,
 - 5.11.2 with actual distributional outcomes also dependent upon householder responses to the tax-shifts.

- 5.12 Another academic study (Wood et al 2012) examined a hypothetical situation where the Victorian Government
- 5.12.1 abolished stamp duties on owner-occupied housing, and
 - 5.12.2 replaced the revenue with a broadly-based land tax.
- 5.13 The study usefully examined the geographic distributional impacts of such a change,
- 5.13.1 looking in particular at the impact of shifts in the tax burden based on locational rings (that is, distances from the Central Business District, in 10 kilometre intervals).
 - 5.13.2 Tax burden is measured as proportion of total revenue, by tax type, for each locational ring.
- 5.14 This modelling found replacing stamp duties with land taxes for owner-occupied housing would see:
- 5.14.1 a substantial increase in the tax burden for those living 'closest in' – that is, within 10 kms of the CBD;
 - 5.14.2 a slight increase in the tax burden for those living 'next closest in' – that is, between 10 and 20 kms of the CBD;
 - 5.14.3 modest reductions in the tax burden for those living 'in the middle rings' – that is, in the 20 to 30 kms, the 30 to 40 kms and the 40 to 50 kms bands around the CBD; and,
 - 5.14.4 slight reductions in the tax burden for those living 'further out' – that is, those living outside a 50 km radius from the Melbourne CBD.
- 5.15 Not surprisingly, the study also found the tax shift (abolishing stamp duties; replacing them with land taxes) would have substantial impact on land values in affected areas.
- 5.16 While average land values would be expected to fall by around 5 per cent across the Melbourne area examined,

- 5.16.1 the largest falls in average land value was likely to occur in the 'inner rings' – down 12 per cent in the 'up to 10 kms from CBD' ring, and down 8 per cent in the '10 to 20 kms from CBD' ring.
- 5.16.2 By comparison, average land values would be expected to drop by between 2 and 4 per cent for those living in the 20 to 30 kms, 30 to 40 km and 40 to 50 km rings.
- 5.17 Taking the two studies together, a (very) general picture of the distributional impacts of any move to shift from stamp duties to land taxes on owner-occupied property could see:
 - 5.17.1 the biggest losers being older people living in inner ring areas around CBDs; and,
 - 5.17.2 the biggest winners being younger families with children living 'out at the periphery'.
- 5.18 More specific distributional outcomes would be obtained from dedicated spatial micro-simulation modelling, and be subject to the tax design used to inform the modelling framework.

6 CHALLENGES

- 6.1 The Henry Tax Review (2009: 263) made a clear, and unequivocal statement recommending the abolition of stamp duties and their replacement (for revenue purposes) with a broadly based land tax:
 - 6.1.1 *"Ideally, there would be no role for any stamp duties ... in a modern Australian tax system. Recognising the revenue needs of the States, the removal of stamp duty should be achieved through a switch to more efficient taxes, such as ... land taxes."*
- 6.2 The Henry Tax Review (2009) proposed any new system of land taxes be levied:
 - 6.2.1 on a broad base (eventually including all land);

- 6.2.2 on a square metre basis;
 - 6.2.3 on a per land holding (rather than aggregate land holdings) basis; and,
 - 6.2.4 with the new land tax replacing stamp duties on property (land and buildings) and existing land taxes.
- 6.3 Any new land value tax will need to overcome a number of important challenges if it is to be a fully efficient tax.
- 6.4 Prominent amongst these challenges are:
 - 6.4.1 ensuring minimal, if any, exemptions;
 - 6.4.2 defining the appropriate tax base; and,
 - 6.4.3 ensuring soundly based land valuations.
- 6.5 The most important of these challenges is any new land tax must be broadly-based, that is with few, if any, exemptions. In simple terms, the greater the number/ the more pervasive the exemptions, the less efficient is the tax.
 - 6.5.1 by encouraging land owners to skew their use of the land toward the tax-exempt/-privileged activity; and/or
 - 6.5.2 requiring higher land tax on the remaining taxable land to meet a given revenue objective.
- 6.6 An associated, important challenge is to clearly, and objectively, define the tax base: that is, what form of land is to be taxed.
 - 6.6.1 In a tangible sense, this means applying any land tax to the unimproved land value, and should not apply to any buildings and structures located thereon.
 - 6.6.2 Insofar as policy-makers wish to take into account social policy considerations (eg the application of the land tax to land owned by low income or other preferred groups)

6.6.2.1 these policy objective should be realised through the social transfer payments system

6.6.2.2 rather than through the creation of exemptions and/or other forms of special treatment (eg differential rates, or thresholds) in the land tax system.

6.7 Another important challenge is to ensure the value of the land being taxed is determined in a robust and transparent manner.

6.7.1 Land values should not be determined in an arbitrary, inconsistent or opaque manner, and out-of-step with fair market value considerations.

6.7.2 At the same time, there should be clear and distinct structural separation, and independence, between

6.7.2.1 the governmental agencies assessing the value of land for taxable purposes, and

6.7.2.2 the agencies responsible for collecting the tax.

6.7.3 The determination of land valuations should not be vulnerable to administrative manipulation to achieve any given revenue objective.

6.7.3.1 To this end, land valuation determinations should be subject to appropriate administrative and judicial appeals.

6.7.4 Indeed, there is considerable merit in adopting a single system for land valuation for use by

- 6.7.4.1 State and Territory Governments, for the application of any broad-based land tax system, and by
 - 6.7.4.2 local governments, for the application of 'council rates' and the like.
 - 6.7.5 To overcome land owners being subject to 'inflation tax', Master Builders believes
 - 6.7.5.1 any land tax being fully indexed for inflation – that is, applied to the real (as distinct from the nominal) value of the land being taxed
- 6.8 A further, and potentially substantial, challenge will be to effectively manage the transition from the 'old' stamp duty based approach to any 'new' broad based land tax system
 - 6.8.1 juggling the needs of the State and Territory Government for reasonably predictable and reliable revenue streams from stamp duties/land taxes over the transitional period, with
 - 6.8.2 the needs of taxpayers for efficient and equitable treatment of property/ land holders, to avoid multiple taxation of the same land holding
 - 6.8.2.1 that is, the land holder having paid their stamp duties or narrow land tax on a property (under the old regime)
 - 6.8.2.2 should not be taxed again for the same asset, absent a transfer of ownership.
 - 6.8.3 In broad terms,

- 6.8.3.1 existing property holders should be 'credited' for stamp duties already paid,
- 6.8.3.2 with new land-holders (that is, land acquired following a transfer of ownership of land) would be liable for the broadly based land tax.

7 ACTION AGENDA

- 7.1 Master Builders sees substantial commercial and economic merit in moving from the current stamp duty-based to a broad land tax based system of property taxation.
- 7.2 However, Master Builders support for such a transition is conditional on a number of factors, namely:
 - 7.2.1 stamp duties on land and building transfers be abolished;
 - 7.2.2 existing land taxes be abolished;
 - 7.2.3 land valuations are fully indexed for price inflation,
 - 7.2.3.1 so only real (that is, above inflation) increases in land values are subject to the land tax; and,
 - 7.2.3.2 remove the perverse incentive for governments to pursue 'inflation dividends';
 - 7.2.4 there be a single system within each State/Territory for land valuations,
 - 7.2.4.1 for the purposes of, inter alia, applying the broadly-based land tax and the determination of municipal rates.
 - 7.2.5 the land tax be set and applied at single, flat rate;

- 7.2.6 there are minimal, if any, exemptions from the land tax, and where exemptions are allowed they be transparent and for limited periods only (not in perpetuity);
 - 7.2.7 be applied on an per square metre of land, regardless of use to which the land is put;
 - 7.2.8 be applied on a per land holding (not an aggregation) basis;
 - 7.2.9 the new system be revenue-neutral (that is, resulting in no net increase in revenue);
 - 7.2.10 the new system be designed and implemented as a harmonised, nationally-consistent single model; and,
 - 7.2.11 delivered as an overall package ('all or nothing'), with the State and Territory Governments give a 'single undertaking' to all of the elements set out above, without exception.
- 7.3 Nevertheless, Master Builders recognises, and remains sensitive to, the heightened level of political risk associated with bold taxation reforms,
 - 7.3.1 such as the transition from a stamp duty-based to a broad land tax-based system of property taxation.
- 7.4 Master Builders', like a great many other organisations and individuals with an active interest in taxation reform, and enhancing housing affordability and supply, and home ownership, recalls with a bitter memory
 - 7.4.1 the commitment by the State and Territory Governments to abolish stamp duties on business conveyances made in the *1999 Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations*; and,
 - 7.4.2 more than a decade later, this commitment has still not been delivered.

- 7.5 As such, any legislative et al changes to increase reliance on a broadly based land tax be
- 7.5.1 directly and formally linked to countervailing reductions in the stamp duties on impacted property; and,
 - 7.5.2 occur in a progressive manner over a reasonable transitional period, with the 'grandfathering' of existing stamp duty/land tax payments on any given property asset.

8 BIBLIOGRAPHY

Australian Bureau of Statistics (2012), "Taxation Revenue, Australia, 2010-11", Cat No 5506.0, Australian Bureau of Statistics, Canberra

Henry, K. (2009), "Australia's Future Tax System: A Report to the Treasurer", The Treasury, Canberra

KPMG (2010), "The Excess Burden of Australian Taxes", KPMG, Sydney

Phillips, B., (2012), "Tax Reform in the ACT: Distributional Impacts", NATSEM, University of Canberra

Productivity Commission (2004), "First Home Ownership: Productivity Commission Inquiry Report", Productivity Commission, Canberra

Wood, G., Ong, R., and Winter I., (2012), "Stamp Duties, Land Tax and Housing Affordability: The Case for Reform", 27 *Australian Tax Forum*, 331 - 349