

Queensland Housing Summit

Master Builders supports the urgent call for more housing, especially affordable housing, across Queensland.

In addition to housing Queensland's most vulnerable, appropriate and affordable housing is needed to attract the necessary workers to build the housing, hospitals and schools that Queenslanders need (especially in the regions).

Unlocking housing supply will need to occur along all parts of the supply chain, starting with adequate investment up front and appropriate land supply. The next critical component is a sustainable building industry to construct new housing.

Challenges in the delivery of housing

A sustainable building industry is crucial to deliver the much-needed housing and industry is doing what it can. However;

- Material and labour shortages and price increases are pushing the price of new construction out of reach and at the same time squeezing builders' margins to a point where they are not sustainable
- Significant National Construction Code changes with insufficient transition periods and Queensland-specific requirements such as project trust accounts, Minimum Financial Requirements (MFR) and out-dated complex licensing constraints are combining to further add to construction costs and stress to an industry already under pressure.

Master Builders recently conducted a survey of members, and the results are clearly showing the pressure the industry is under. One member put it this way *"With NCC changes coming in we have to start our business from scratch again, all design and pricing, that is going to cost a fortune."* Another responded, *"Governments are creating most of cost increases"* and another stated *"We are being consumed with red tape."*

Sadly, a number of builders surveyed advised they were going to leave the industry, due largely to cost pressures and mental health challenges, with owners blaming builders for delays and price increases that are outside their control.

The loss of experienced workers in our industry is only going to add to the pressure of delivering much needed new housing.

Solutions

Investment in social and affordable housing and measures to ensure adequate land supply are needed to increase access to housing.

When it comes to the delivery of new housing, it is the red tape constraining industry without a corresponding benefit for homeowners, that must be addressed. Master Builders therefore proposes that the Summit also leads to a commitment from Government for the following:

1. Queensland Housing Code for all Councils across Queensland

Finalise and adopt a mandatory Queensland Development Code for housing. The Code would mean one consistent set of rules for new housing across the State by setting out what is code assessable detached housing, duplexes & medium density development (3 story walk up). It will remove unnecessary delays and complexity in the planning approvals for new housing and allow for economies of scale.

2. NCC 2022

NCC changes taking effect from next year to add accessibility and 7 star requirements to new housing will add to the cost of housing and add to the stresses on builders as the detailed compliance information is still not available.

The building industry is not against energy efficient homes or accessible homes. What we are asking for is sensible change. The changes also need to be clearly understood and a sufficient transition period allowed to enable industry to adapt without incurring unnecessary costs.

A more realistic 3 year transition period would reduce the design and training overhead costs for builders, to let them get supply chains sorted and to get display villages with compliant homes. And we're also asking for certainty and more detail for the changes. For example, with step-free entry to the home, we need a settled view on how that will operate with existing termite and water ingress requirements.

3. Queensland-specific constraints on the industry

Queensland has arguably the most complex and burdensome regulatory environment for builders. Much of this 'red tape' has no proven benefit, such as minimum financial requirements (MFR) and project trust accounts.

Builders want to ensure businesses in the industry are financially sustainable and all participants are properly paid. However, the overly-complex Queensland requirements result in substantial cost for no consequent benefit.

In order to attract more skilled workers and businesses to the construction sector in Queensland, the application of project trust accounts and MFRs should be reconsidered.

Project trust accounts

Trust account requirements for Queensland's building sector are extremely complex, going well beyond requirements in other industries, such as solicitors or real estate agents.

Project trust accounts have existed for many years in a number of jurisdictions. However, they do not lend themselves to legislative obligations of the nature imposed in Queensland. The result is a confusing and onerous set of obligations that is difficult to interpret let alone administer. For example:

- There are around 60 offences in the project trust regime, many of which relate to administrative requirements such as providing the correct form or opening the account within the specified time period (which is dependent on timing of engagement of subcontractors) and so on – each step of the process is overly complicated
- Confusing and conflicting definitions of which projects require a trust account and which subcontractors and suppliers must be paid via the trust account and which must not – if a subcontractor or supplier is paid from the trust account but did not in fact carry out 'protected work', the head contractor has breached the legislation
- Current software tools designed to assist with project trust account requirements have been found non-compliant by the QBCC due to the enormous complexity of the legislation combined with an illogical interpretation of ledger reporting.

Further, there is an expected protection of subcontractor payments that does not reflect the reality of the regime. If a developer fails to pay the builder and an insolvency event occurs, there will not be money in the account. In addition, a builder may not agree with a subcontractor's payment claim and provided payment schedule obligations are met, need only retain the scheduled amount in the trust account (which is fair and reasonable). Where money is in the account in an insolvency event, administrators will still need to go through a lengthy process of determining 'beneficial interests' as defined in the legislation, which may not be easily determined.

Put simply, the project trust regime does not meet subcontractor expectations of being paid 'in full on time every time'.

The cost benefit analysis for the legislation was conducted in 2016 by Deloitte¹ which unfortunately relied on flawed logic. One of the 'key assumptions' in the analysis was that subcontractors include a 'risk premium' of 2.5% for the risk of non-payment, and that prices would reduce accordingly if a project trust account was in place. There has been no evidence of reduced subcontractor pricing following introduction of project trust accounts.

¹ [Analysis of security of payment reform for the building and construction industry Prepared for the Queensland Department of Housing and Public Works, 8 November 2016](#)

In addition, construction costs have risen sharply since 2016 when the threshold of \$1 million was recommended, adding further weight to the argument the cost benefit analysis should be disregarded.

While building contracts for detached dwellings and duplexes will not require a project trust account, building contracts for 3 or more units do. From 1 April 2023 the contract threshold for non-government projects will reduce to \$3 million and from 1 October 2023 it will further reduce to \$1 million. This will capture a large proportion of social and affordable housing construction projects and will impact a large proportion of the industry.

If trust accounts are required for smaller housing projects (with 3 or more units), the pool of available builders may shrink further due to the administrative burden. If builders, unfamiliar with the complexity of the regime, do not adequately price for the additional costs in their lump sum tenders, the costs will eat into already-slim margins adding further pressure to the industry.

Master Builders submits the trust account regime should not extend beyond its current application (for non-government projects over \$10 million and government projects over \$1 million). Ideally it would be repealed altogether.

Minimum financial requirements (MFR)

MFRs in Queensland have also evolved into a complex legislated framework that is costly and cumbersome for building industry businesses.

The concept of financial reporting is not new, nor is it specific to Queensland. However, the legislated framework in Queensland is unique. Legislated annual reporting, complex rules around asset tests that differ from other regulators and jurisdictions, and recent changes to accounting rules adding substantial cost to smaller businesses combine to create an unnecessary administrative burden on builders for no demonstrated benefit.

In April 2022, Master Builders commissioned a report from Ernest & Young² that confirmed that the MFR requirements have not achieved their intended effect.

Recently, a change to accounting standards has resulted in special purpose financial statements no longer being acceptable for MFR reports. This has resulted in a significant cost increase for smaller businesses when an MFR report is required (e.g. small businesses with an annual turnover under \$800,000 operating through a trust need to provide an MFR report when applying for a licence, along with small businesses needing to increase their financial category). The impact is a cost increase of thousands of dollars for an accountant to prepare the requisite report each time it is required.

² [Assessing the effectiveness of Queensland's minimum financial requirements for building practitioners, April 2022](#)

Residential house builders are among those impacted. MFRs add pressure to business owners and the compliance costs eat into already-thin margins.

Master Builders submits that the requirement for MFRs should be removed. Failing that the entire system must be simplified. Internal accounts and financial information required by ASIC and/or ATO should suffice and asset rules should align with other regulators and jurisdictions. Of course, if the QBCC identifies a concern, it should retain the ability to require further information. A proactive approach by the QBCC will achieve better outcomes than a focus on whether a small business has submitted a form.

4. Streamlined licensing approvals to facilitate new qualified trades

The Queensland licensing requirements for trade contractors are out-dated and difficult to interpret and comply with. So much so that the regulator (QBCC) is unable to provide advice to industry as to when a particular licence is required and whether a qualification is acceptable (e.g. where it is an older qualification or obtained overseas).

In addition, many trades are not required to be licensed in other States, resulting in an inability to leverage mutual recognition laws. Accordingly, critical trades needed in Queensland, such as brick and blocklayers, are unable to come and work in Queensland to subcontract for a head contractor. Confusingly, unlicensed trades may work for a licensed subcontractor of the same trade, but not a licensed builder.

Master Builders proposes a solution whereby qualified subcontractors from interstate (e.g. with minimum 2 years experience in the trade and a certificate qualification) can come to Queensland and lawfully work for a head contractor for a short period (e.g. 6 – 12 months) on a 'temporary licence' arrangement. In this scenario, the subcontracting trade would not be able to contract directly with consumers, only to a licensed head contractor for a limited period.

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on 30 September 2022*