

**From:** Rebecca Sostarko <[rebecca@masterbuilders.com.au](mailto:rebecca@masterbuilders.com.au)>  
**Sent:** Monday, 6 April 2020 4:25 PM  
**To:** Chambers - Ross J <[Chambers.Ross.j@fwc.gov.au](mailto:Chambers.Ross.j@fwc.gov.au)>  
**Cc:** Shaun Schmitke <[Shaun.Schmitke@masterbuilders.com.au](mailto:Shaun.Schmitke@masterbuilders.com.au)>  
**Subject:** AM2020/12

Dear Associate,

Please find **attached** a submission (in both word and pdf format) from Master Builders Australia with respect to AM2020/12. While the submission outlines alternative approaches to the proposed Award variations for the consideration of the Commission, it does not seek to oppose them.

Master Builders Australia has closed our office and most staff are currently performing duties from home. Relevant contacts for this submission are:

- Shaun Schmitke – Deputy CEO and National Director IR, Safety, Contracts
  - [REDACTED]
  - [shaun.schmitke@masterbuilders.com.au](mailto:shaun.schmitke@masterbuilders.com.au)
- Rebecca Sostarko – Senior Adviser Safety, Contracts, Workplace Relations
  - [REDACTED]
  - [rebecca@masterbuilders.com.au](mailto:rebecca@masterbuilders.com.au)
- Sam McGregor – Policy and Industry Adviser – Safety, Contracts, Workplace Relations
  - [REDACTED]
  - [sam@masterbuilders.com.au](mailto:sam@masterbuilders.com.au)

Kind regards,

**Rebecca Sostarko**  
Senior Adviser – Safety, Contracts, Workplace Relations



Level 3, 44 Sydney Ave, FORREST, ACT 2603  
PO Box 7170, YARRALUMLA ACT 2600  
T (02) 6202 8888 M 0400 596 103 E [rebecca@masterbuilders.com.au](mailto:rebecca@masterbuilders.com.au) W [www.masterbuilders.com.au](http://www.masterbuilders.com.au)



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## BEFORE THE FAIR WORK COMMISSION

### **s.157 – FAIR WORK ACT 2009 - VARIATION OF A MODERN AWARD TO ACHIEVE THE MODERN AWARDS OBJECTIVE**

### **AM 2020/12 – VARIATION OF AWARDS ON THE INITIATIVE OF THE COMMISSION**

#### **SUBMISSION**

#### **MASTER BUILDERS AUSTRALIA**

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#### **BACKGROUND**

1. This submission is filed by Master Builders Australia ('Master Builders') with reference to the above matter and the accompanying Statement ('the Statement') of 1 April 2020 and associated materials.
2. Master Builders maintains an interest in the *Building and Construction General On-site Award 2010*; *Joinery and Building Trades Award 2010*; and the *Mobile Crane Hiring Award 2010* (together 'the Construction Awards').
3. The Statement notes that the Construction Awards have been excluded from the list of Modern Awards proposed for variation in Phase One of this proceeding. The parties have been encouraged to pursue discussions about measures to respond to the impacts of the COVID-19 pandemic, noting any arising consent application for variation will be expedited for hearing [at para 111].

#### **POSITION ON PROPOSED VARIATIONS**

4. Master Builders has reviewed the draft variations to create 'Unpaid Pandemic Leave' and 'Annual Leave at Half Pay' provisions. Master Builders supports, in-principle, these provisions and echoes the submissions of the Australian Chamber of Commerce and Industry ('ACCI') as it deals with technical and drafting matters.
5. Further, Master Builders submits that the proposed variations will be of benefit to workplaces covered by the Construction Awards and have identified no barriers to their inclusion in Phase One, were the Commission minded to adopt this approach.
6. In the alternative, and noting the Commission has encouraged the Construction Award parties to engage in discussions about measures to respond to the impacts of the COVID-19 pandemic, we submit that the parties would collectively assisted were the Commission to consider determining a timeframe by which these should occur. We submit this will ensure discussions are undertaken efficiently.
7. The remainder of this submission outlines the impact of COVID-19 on the sector, its response to date and resulting challenges, and potential future impacts. We request it be considered in context of both the current matter and the timeframe alternative noted above.

#### **BUILDING AND CONSTRUCTION INDUSTRY - COVID-19**

8. The Australian building and construction industry is critical to the economy of the country, with construction representing over 11% of gross domestic product. There is \$268.9 billion worth of projects are under current construction Australia wide. The industry provides opportunities for 395,000 building and construction businesses of which 388,000 are SMEs (the largest number of SMEs in the country in any one industry).

9. The building and construction industry provides employment for some 1.2 million people across Australia, and employs more full-time workers and more apprentices than any other sector. Each year, the building and construction industry pays some \$65.5 billion in wages and utilises \$173 billion in goods and materials.
10. The core focus of both Master Builders Australia, and the building and construction industry generally, has been to keep the sector open and operational by applying and maintaining strict compliance with social distancing and hygiene requirements necessary to stop the spread of COVID-19. In this regard, Master Builders recognises and notes the cooperation of most industry stakeholders including the Construction, Forestry, Maritime, Mining and Energy Union ('CFMMEU') Construction & General Division and the Australian Workers Union ('AWU').
11. As the Commission has correctly identified, the industry is not currently the subject of a specific Government directive to cease or restrict operations in light of COVID-19.
12. However, Master Builders observes that the building and construction sector is experiencing adverse effects as a result of the pandemic and notes an ever-increasing number of reports received from members about these and related consequences. The general industry expectations are that these adverse impacts will likely become more acute in the near and foreseeable future.
13. As the Commission is aware, the industry is one which is project-based and features a range of unique nuances which enable the effective performance of construction work. The industry is underpinned by a complex commercial contractual relationship which result in a high degree of co-dependency amongst industry participants. This means that any impact of any event, delay or major disruption in one part of the sector, or major entity within, has consequential impacts that generally flow on or are amplified throughout.
14. The majority of building and construction work currently underway involves existing projects pursuant to contracts entered prior to COVID-19. We are not aware of any published industry data or conventional performance measures which accurately capture or demonstrate the impact of COVID-19 on building and construction, however we do outline later herein a range of commonly reported adverse conditions.
15. Master Builders also indicates that it has considered various COVID-19 impact scenarios with reference to earlier economic downturns. There are several key features of the building and construction industry which can be drawn from those downturns, including that the impacts experienced are generally sharp and deep, and that recovery requires a period generally longer than most other sectors.

#### **COVID-19 – IMMEDIATE IMPACTS**

16. There are numerous COVID-19 challenges already facing building and construction businesses and employers.
17. The most significant of these has been the implementation and ongoing strict compliance with social distancing and hygiene rules necessary to stop the spread of COVID-19. All impediments to achieving compliance with social distancing must be identified and addressed. The sector has unique challenges in the physical co-dependency of workforce, and transferability within sites and from site to site causing many to make significant temporary changes to workplaces processes and planned project phasing.
18. Community confidence and the general deterioration in a range of economic and market conditions are already being felt throughout the sector. These are manifesting in several ways, including:
  - Many residential housing clients are delaying or cancelling existing contracts, causing a drop in the quantity of current work and that is usually expected for the future;
  - There are many businesses that perform residential renovation or maintenance work who report clients experienced confusion about the application of Government mandated social distancing and gathering rules, resulting in planned work being cancelled or access to residential premises being refused;

- Commercial builders report that tenders for works of significant value have been withdrawn or suspended, and expected tenders that usually follow a call for expressions of interest have not been announced as conventionally expected;
- There are many instances where the supply of overseas building products are either significantly delayed or in shortage, with no guarantee of the usual or conventional supply levels for the future;
- Industry participants themselves are, for the reasons above and a multitude of others, experiencing significant general uncertainty and adopting a highly cautious approach to the offering or acceptance of future works;
- There are a growing number of contractual disputes arising as a result of COVID-19, many of which are new or unexpected, which are leading to works slowing or suspending in the absence of clarity or swift resolution;
- Some construction sites have been temporarily shut-down at the request of various government regulators in circumstances that were mistaken or incorrect, most frequently involving misinterpretations of the relevant State or Territory gazettes made about social gatherings, distancing and related hygiene requirements;
- Businesses and employees located near particular State or Territory borders have been adversely impacted by various restrictions or closures. Master Builders is aware of companies being prevented from crossing to obtain new work, significant delays in crossing to perform existing work, delays in obtaining supplies and materials; and workers being delayed in crossing to report for work;
- Many businesses report that the impact of COVID-19 on other economic sectors and the community broadly, particularly those subject to Government restrictions, have hindered, delayed or obstructed usual operations and are giving rise to workforce uncertainty. Examples include delays in obtaining necessary third-party approvals for works undertaken (such as regulator assessment and approval), reduced workforce availability caused by school restrictions, increased family responsibilities, etc;
- Members are reporting that subcontractors are increasingly affected by a range of factors, including delays on other sites, availability of specialist staff, and unforeseen supply delays; and
- The most common concern from members is a reported decrease in future works, contracts or orders, either planned or received. This is often referred to as a “drying up” of future work. The reports from members estimate these decreases are between 10 and 60 per cent in comparison to conventional business conditions, and that resulting ramifications will be deeply felt as existing works are completed and community/market confidence continues to erode.

19. As earlier noted, reports of the above type are but a sample of those being relayed to Master Builders with noticeably increasing frequency.

### **COVID-19 – RANGE OF POTENTIAL INDUSTRY IMPACTS**

20. Master Builders has undertaken a scenario analysis to understand the range of impacts on the building and construction industry that may arise as a result of COVID-19 to guide our response and plan and assistance to members. These scenarios are based on the industry impacts measured subsequent to previous economic downturns or other general industry disruptions, overlaid against current circumstances.

21. Two of these scenarios are summarised in table form at the end of this submission, involving both ‘high’ and ‘medium’ circumstances and the possible range of ramifications that could result.

22. These scenarios are provided to assist the Commission in its considerations. They do not represent Master Builders actual predicted or forecast impact of COVID-19 on the building and construction industry and are provided to demonstrate the range possible ramifications based on earlier experiences.

### **MASTER BUILDERS AUSTRALIA**

**6 APRIL 2020**

## **Medium impact scenario**

### Assumptions:

- Unemployment rate peaks at 9% - the highest since 1994
- Construction's share of total employment equals previous record low of 6.7% in June 1992
- Decline in Commercial Building Activity of a similar magnitude to 1980-1983 downturn
- New Home Building Starts decline by similar magnitude as 2010-2012 downturn

### Total Employment across Economy

- Currently 12,995,437 Australians are employed (either full time or part time) (January 2020)
- This drops to low point of 12,486,430 after crisis
- Reduction of 509,000 in total number of Australians at work (-3.9%) due to coronavirus crisis

### Unemployment

- Unemployment rate at 5.3% (January 2020)
- Equivalent to 725,915 unemployed people
- Unemployment rate peaks at 9% after crisis
- Number of people without a job increases by 70% to reach 1.23 million

### Construction Employment

- Construction currently accounts for 1.19 million jobs in economy, about 9% of all jobs
- Construction's share of total employment falls to 7.5% (a little higher than previous record low of 6.7% in Dec 1992)
- Combined with economy-wide reduction in employment, numbers working in construction drops to about 836,590
- A total of 352,210 construction jobs are lost - equivalent to a 30% decline

### Number of Building and Construction Businesses

- The scale of the reduction in the number of businesses is assumed to move largely in tandem with construction employment
- There were about 395,000 businesses as at June 2019
- The crisis causes a net reduction of 117,000 in the number of businesses, bringing the total down to about 278,000

### Commercial Building Activity

- Between December 1980 and June 1983, the volume of commercial building work dropped by 29% - the second largest on record.
- The severity of the current crisis results in commercial building activity dropping by 29%

### New Home Building Activity

- Building work started on about 181,000 new homes over the year to September 2019 (latest data)
- New dwelling starts fall by 29% from this level post-Crisis (similar to the 2010-2012 downturn)
- The annual number of new home starts troughs at 128,510
- High density dwellings account for a disproportionate share of the fall in new home building

## High Impact Scenario

### Assumptions:

- Unemployment rate peaks at 12% surpassing the previous all-time high in December 1992 peak (11.2%)
- Construction's share of total employment falls to 6% (previous record low 6.7% in June 1992)
- Decline in Commercial Building Activity sees slightly larger reduction than previous record
- New Home Building Starts sink below previous record low

### Total Employment across Economy

- Currently 12,995,437 Australians are employed (either full time or part time) (January 2020)
- This drops to low point of 12,074,790 after crisis
- Reduction of 920,647 in total number of Australians at work (-7.1%) due to coronavirus crisis

### Unemployment

- Unemployment rate at 5.3% (January 2020)
- Equivalent to 725,915 unemployed people
- Unemployment rate peaks at 12% after crisis
- Number of people without a job more than doubles to 1.65 million

### Construction Employment

- Construction currently accounts for 1.19 million jobs in economy, about 9% of all jobs
- Construction's share of total employment falls to 6% (lower than previous record low of 6.7% in Dec 1992)
- Combined with economy-wide reduction in employment, numbers working in construction drops to about 725,000
- A total of 464,300 construction jobs are lost - equivalent to a 39% decline

### Number of Building and Construction Businesses

- The scale of the reduction in the number of businesses is assumed to move largely in tandem with construction employment
- There were about 395,000 businesses as at June 2019
- The crisis causes a net reduction of 154,000 in the number of businesses, bringing the total down to about 241,000

### Commercial Building Activity

- Previously, the largest fall in commercial building was the 44% reduction between Sept 1989 and June 1993
- The severity of the current crisis results in commercial building activity dropping by 50%

### New Home Building Activity

- Building work started on about 181,000 new homes over the year to September 2019 (latest data)
- New dwelling starts fall by 45% from this level post-Crisis (a bit more severe than the 1994-1996 downturn)
- The annual number of new home starts troughs at 100,000
- High density dwellings account for a disproportionate share of the fall in new home building