

Residential Apartment Buildings Amendment (Building Work Levy) Regulation 2021

Consultation Submission

Chris Lehmann 15/12/2021

Introduction

Master Electricians Australia (MEA) is the trade association representing electrical contractors recognised by industry, government and the community as the electrical industry's leading business partner, knowledge source and advocate. Our website is www.masterelectricians.com.au

Master Electricians is supportive of the aims outlined in the discussion paper to reform the NSW building and construction industry to stamp out unsafe and poor-quality building practices.

We applaud the Construct NSW 6 pillars roadmap administered by the Office of the NSW Building Commissioner and believe that the vital reforms envisaged be adequately funded to give the best chance of success. Collecting a levy to fund the activities undertaken under the Residential Apartment Building (RAB) and Design Building Professionals (DBP) is warranted and prudent.

Given the depth of the identified challenges that the NSW building and construction industry faces, and the very real economic and personal damage that the current industry culture and performance causes. We would posit that the reform process be accelerated and that the NSW Parliament consider using the experience in other States to help inform the way forward.

We fear that if just the Residential Apartment Sector is targeted with increased compliance and auditing it runs the risk of shifting the problems and attendant damage into the home residential and renovation market only to have to be tackled at a later date.

We also believe that for the aims of the reforms to be realised as quickly as possible, greater weight needs to be given to training. Auditing and enforcement are important and will have a deterrent effect over time but primarily relying on auditing and enforcement is like the old adage of "having an ambulance at the bottom of the cliff, rather than a fence at the top of it". Digital platforms for delivery of training have their place, especially for skills maintenance and re-licensing checks but are not adequate on their own to reverse persistent poor practices and skills gaps that currently exist.

Utilising the lessons learnt from successful programs in other State jurisdictions could provide methods to address some of the challenges that the NSW Building and Construction Industry currently faces.

Submission

1. **Levy to be paid on all new construction or major renovation work over a set \$ figure, not just on residential apartments over 6000 square metres.**

The problems in the NSW construction sector are endemic and not just confined to the residential apartment sector. There is always disruption in bringing in reform and if the goal is to lift standards across the whole of industry and not just one sector we see no reason to delay. We believe that there is a risk that there will be adverse outcomes in



the residential housing sector as service providers with poor standards move to a less regulated environment.

Broadening the base of funding as wide as possible will allow for a more comprehensive response to the identified problems and produce the greatest amount of community benefit and reduce future economic losses.

There are different thresholds for levy schemes in other jurisdictions, however in examining other states and the effectiveness of such schemes we believe Queensland system is the best example as it address not only enforcement but also Training and as an added bonus Long Service Leave. In Queensland the levy of 0.575% on all projects over \$150,000 with the upper limit of contributions determined by the Government based on landmark projects

2. Adopt a % levy on all building contracts as opposed to the tiered system proposed, where the quantum of penalty units needs to be varied by legislation.

We note that whilst there is an indexation mechanism to increase the revenue depending on the number of stories currently, this does not adequately reflect the value of the works undertaken or properly reflect the risk of defects. For example, if a dwelling had 3 wet areas per floor as opposed to 1 the attendant risk of future damage would be greater, a levy based on the cost of construction should cover this risk more adequately as it will more adequately reflect the complexity of the works undertaken and costs of potential repairs over similar floor areas.

Other jurisdictions within the commonwealth favour this percentage model ¹as being easier to administer and more reflective of likely risk.

3. Consider utilising the collected levy monies to fund a Construction Skills Fund similar to other jurisdictions, such as ACT² and Tasmania ³ to pay for comprehensive training courses in identified area of greatest need.

We note the focus on *Intelligence, Analytics and Education* on pgs. 17 & 18 of the Consultation Paper. In other jurisdictions such as Queensland a dedicated Construction Skills body ⁴ has been set up to gather the intelligence on areas of need and to fund courses either to employers or direct to eligible employees⁵. A specific example of this was during the expansion of the gas industry in Queensland. It was identified through the intelligence and analytic function of CSQ, that there were looming shortages of

¹ <https://ctf.wa.gov.au/what-we-do/we-collect-a-levy>

² <https://www.legislation.act.gov.au/View/ni/2020-701/current/PDF/2020-701.PDF>

³ <https://www.keystone.com.au/levy/>

⁴ <https://www.csq.org.au>

⁵ https://tafeqld.edu.au/csq?utm_source=google&utm_medium=SEM&utm_campaign=csq-2021&utm_term=L1&gclid=Cj0KCQiAnuGNBhCPARIsACbnLzrwwZ50YWn5UIJ_j2Q4-hwR3gQD1Cz7MPZXIxFaPUsxrbrlTkf5p0waAlPcEALw_wcB

critical skill sets such as Instrument Technicians. CSQ made funding available for UE40411 Certificate 4 in Electrical Instrumentation to meet the anticipated demand of the market. This program was very successful and once the critical phase in construction was met, this increased capacity of instrumentation technicians was readily absorbed into both the Qld and Australian economy.

We also note that you have invested in a digital LMS in an attempt to improving standards in particularly problematic areas such as waterproofing. Whilst digital platforms may adequate in reducing knowledge gaps in some areas and able to be delivered quickly, the “hands on” vocational nature of construction skills means that direct instruction and assessment may be the best method of correcting entrenched practices.

There have been many references made in the consultation paper that there is a critical skills/capability gap in NSW with regards to waterproofing. Waterproofing failures are very costly to rectify, involving a lot of secondary damage to other aspects of the building envelope. It would appear a targeted fund for skills and standards improvement could have a significant multiplier effect in reducing expensive rectification. Arguably, the incentive for developers to insist on a higher level of competence in sub-contractors, and demonstration of training would be heightened if they were ultimately the ones paying for it.

We also urge the NSW government to consider adopting a Continuous Professional Development (CPD) scheme for vocational licensing as adopted in other state jurisdictions⁶ to ensure once businesses are licensed in a particular skillset they keep current with latest legislative and technological changes in their field.

4. Support for the DBP licensing scheme.

We would urge the NSW Government to consider legislation in comparable jurisdictions that deal with licensing and regulation of Engineers and Building Industry Practitioners separately.

In the Qld jurisdiction, builders and engineers are licensed separately. Builders and construction trades (with the exception of electricians) are licensed and regulated by the Queensland Building and Construction Commission (QBCC)⁷ under the Queensland Building and Construction Commission Act 1991.

Engineers are registered under the Professional Engineers Act 2002⁸ and their conduct regulated and enforced the Board of Professional Engineers of Queensland.

⁶ <https://www.cbos.tas.gov.au/topics/licensing-and-registration/cpd>

⁷ <https://www.legislation.qld.gov.au/view/whole/html/inforce/current/act-1991-098>

⁸ <https://www.legislation.qld.gov.au/view/pdf/inforce/2013-09-23/act-2002-054>

Electricians and Electrical Contractors are licensed and regulated under the Electrical Safety Act 2002⁹ and the Electrical Safety Regulation 2013¹⁰.

It is our position that the Building and Construction Industry is a very large and complicated and that specific legislation is required for each of the distinctly different aspects of it rather than having generalist legislation.

5. Consider combining the NSW Portable Long Service scheme with the proposed RAB Levy.

In Queensland the two comparable levy schemes are combined ¹¹with a 0.575% levy that funds the combined functions, this would be a simpler and more efficient system and there would be economies on the administration costs. It would also provide a larger pool of funds to manage for the benefit of the industry and achieve the aims of the reforms. The other advantage of the Qld scheme is that the levy monies are paid in advance as part of the approvals process. For larger developments the monies are paid in advance of each stage to assist with project cash flow. This eliminates the need for costly recovery efforts for non-payment.

To give an approximate idea of how this would translate to NSW, the entire NSW construction sector in 2019 had a total activity of \$53 Billion ¹², 0.575% of this figure translates to roughly \$300 Million dollars of revenue. This would be a considerable pool of funds that could be utilised for the benefit of the industry to pay for targeted training to lift competency standards, ensure funding for the operation of a secretariat and auditing officers.

Based on the current Qld model of calculation 0.575% translates in the NSW jurisdiction to the following;

• Portable Long Service (0.35%)	\$185,500,000
• Enforcement (0.125%)	\$ 66,250,000
• Training (0.1%)	\$ 53,000,000

⁹ <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2002-042>

¹⁰ <https://www.legislation.qld.gov.au/view/html/inforce/current/sl-2013-0213>

¹¹ <https://www.qleave.qld.gov.au/building-and-construction/levy-payers/what-is-the-levy>

¹² <https://www.abs.gov.au/statistics/industry/building-and-construction/construction-work-done-australia-preliminary/latest-release#:~:text=Key%20statistics,-In%20seasonally%20adjusted&text=Total%20construction%20work%20done%20fell,rose%200.4%25%20to%20%2423%2C487.5m.>

Conclusion

Master Electricians Australia support the aims of the RAB and DBP schemes and endorse the establishment of a Levy on developers for all building works over the threshold figure and include residential housing as well as residential apartments.

We believe that it should be a flat percentage figure payable in advance on each stage of the project. Monies used from this levy to fund –

- Occupational Certificate Auditing
- Design Building Professionals Auditing
- Industry Intelligence and Analytics
- The creation of *Construction Skills NSW* along the same lines as comparable bodies in other states, to address skills needs
- Portable Long Service Leave

We believe that serious consideration should be given to combining the DBP levy and the portable long service levy¹³, to provide efficiencies in administration costs and provide a larger pool of funds to use for the combined benefit of the industry in this current reform process.

It should be noted that we are envisaging that the monies collected from this combined levy would be solely for the purposes of lifting standards in the building industry and would be in addition to the budgets currently available to administer workplace safety in NSW.

We would be eager to explain our submission to you and participate in any hearings that may be called.

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¹³ <https://www.longservice.nsw.gov.au/bci/levy/about-the-levy/how-much-levy>