



## Commonwealth Government HomeBuilder Package

### *Joint Industry Submission to the Victorian State Revenue Office*

Urban Development Institute of Australia (Victoria)  
Master Builders Association of Victoria

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### Introduction

Collective concern for the building, construction and development industry has brought the Urban Development Institute of Australia, Victoria division (UDIA Victoria) and Master Builders Victoria (MBV) together across a range of policy and industry-led initiatives in response to the COVID-19 pandemic.

UDIA Victoria is a non-profit advocacy, research and educational organisation supported by a membership of land use and property development organisations, across the private sector and Victoria's public service. We are committed to working with both industry and Government to deliver housing, infrastructure and liveable communities for all Victorians.

MBV is the leading voice in building and construction. MBV represents approximately 8,000 stakeholders from across Victoria's building and construction industry. Our members include small businesses, suppliers and large-scale building companies, who deliver domestic, commercial and infrastructure projects.

### Background

Announced by the Australian Government in early June 2020, the HomeBuilder scheme promised to sustain many businesses in the Victorian building industry, retain more than 20,000 jobs, and enable Victorians to build and renovate their dream homes.

UDIA Victoria and MBV welcomed the scheme and have seen extremely positive take-up being reported by members in Victoria. The potential of the scheme was quickly confirmed as Victorians led the way, with more than 10,000 expressions of interest to date.

However, with respect to the new home and off-the-plan segments of the market, there are several significant gaps in the scheme, and a lack of clarity remains around key details; as do concerns that some criteria limit the scheme's potential to achieve its stated intent.

The scheme's gaps include:

- The practical application of the grant will be primarily limited to the new house and land market, and will have little to no positive effect in stimulating activity in the apartment and townhouse market. A minimal number of off-the-plan dwellings will be eligible based on the

time it takes to sell, develop and construct an apartment or townhouse project (within 3-6 months).

- In the new house and land sector, the short time horizon means that the requirement on the development industry to produce the number of lots that will be brought forward into the eligible time period to commence, will be difficult when many land development businesses and builders have actually already laid off large portions of their workforce.
- The impacts of the narrow timeframe are further exacerbated by the time being taken by banks to approve finance which has blown out by months. With only three months for purchasers to organise finance and commit to a build contract, purchasers really need to buy ASAP to get the benefit.
- The second wave of COVID-19 in Victoria further limits the capacity of this scheme. Traffic through display homes has disappeared since the implementation of the second lockdown. The time limits within the scheme will therefore significantly restrict the potential for the scheme to stimulate the Victorian economy.
- The \$150,000-\$750,000 price caps will respectively limit renovations, especially in regional Victoria, and home builds in metro Melbourne.
- The package is not retrospective, which is leading to cancellation of contracts and agreements that are already in place as consumers back out of existing contracts in order to take advantage of the grant.
- The eligibility requirement for purchasers to be an Australian citizen, and for all individuals on a land title to be Australian citizens, will unfairly limit the eligibility of many permanent residents who are not Australian citizens.

## Summary of Key Issues

1. Extension of timing for commencement
2. Defining 'commencement'
3. Requirement for applicant to be registered on the certificate of title
4. Eligibility
5. Clarity around timing of payment

## Details of Key Issues and Recommendations

1. Extension of timing for commencement

The Commonwealth has provided the states with the ability to exercise discretion regarding a three-month extension of time for commencement. A blanket extension of the timeframe for commencement will minimise the need for the State Revenue Office (SRO) to have to exercise its discretion on a case-by-case basis, by having more realistic definition of commencement.

We recommend that the Victorian Government extend the 90-day build commencement timeframe currently proposed to meet the spectrum of housing products in the market – ranging from conventional house-and-land packages to multi-unit apartments – as most are unlikely to meet this timeframe unless they are already in final stages of planning and development. Victoria has legitimacy in making this change given the severe impact that the second lockdowns is having on our economy.

**Recommendation: Apply a blanket extension to the timeframe for commencement for a further three-month period.**

## 2. Defining ‘commencement’ for new builds and off-the-plan developments

An improved definition of commencement, beginning when construction is able to practically commence (as opposed to when a contract is signed) is necessary to provide clarity to applicants.

Guidance recently released by the Tasmanian and South Australian Governments have provided two different definitions so far.

UDIA Victoria and MBV are of the view that commencement should be aligned with the Domestic Building Contracts Act, Sections 5 and 6. The relevant section of the Act is included at Appendix A.

This provides consistency of understanding to all practitioners and helps to offset some of the delays already mentioned with lending and permit processes. Since this definition only confirms eligibility for the grant, with payment itself dependant on the reaching the firsts stage payment in the contract, there is no prospect of grants being paid without substantial construction work having been completed.

Clearer definition of ‘commencement’ will minimise the need for the SRO to have to exercise its discretion on a case-by-case basis. It will also improve the impact of the grant, and subsequent job creation across Victoria.

**Recommendation: ‘Commencement of construction’ to be as defined in line with the definition of construction in the Domestic Building Contracts Act 1995.**

## 3. Requirement for applicant to be registered on the certificate of title

The Commonwealth-issued FAQ’s (extract below) state that the application must be made no later than 31 December 2020, and that the applicant must be listed on the certificate of title for the property. This is a major concern.

The requirement to be listed on title is a problem for new house and land purchasers, as many customers will be hesitant to settle on a block of land before they have applied or been approved for HomeBuilder. It is likely that many purchasers will be relying on HomeBuilder to enable them to afford to build a home. If their application is rejected for some reason, they may well be left having purchased a block of land but with insufficient funds to build.

Ideally, applications should be able to be made prior to settlement so that customers have certainty before making a financial commitment. The HomeBuilder grant could then be approved,



subject to the applicant becoming the owner and commencing construction within the required timeframe.

Relevant section of the Commonwealth's FAQ's released on 14 July 2020:

***When should I apply?***

*Applications for the HomeBuilder Grant must be received no later than 31 December 2020. It is strongly recommended that you submit your application with all supporting documentation to enable the relevant Revenue Office to process it. Applications for the HomeBuilder Grant will open in the coming weeks. However, there may be some differences between the jurisdictions, and you should regularly check the website of the relevant Revenue Office for further information.*

***Does/do the applicant/s have to be listed on the certificate of title?***

*The applicant(s) must be listed on the certificate of title for the property.*

**Recommendation: Accept applications for HomeBuilder from purchasers of new house and land packages prior to settlement and provide early approval to give purchaser certainty that they will have sufficient means to commence the home build.**

#### 4. Eligibility and Application

The SRO has not announced or released any details on how eligible applicants can apply for the scheme and how the grant will be paid. Accordingly, banks and lenders are NOT accepting the \$25,000 grant as part of their contribution for finance approvals.

This is creating a \$25,000 funding gap in loan applications. In some cases, a workaround is available by increasing the loan amount by \$25,000 using Lenders Mortgage Insurance. However, this option is not available in all cases due to other lending policy restrictions.

Given banks / lenders are not accepting the grant funds, the situation with finance applications is deteriorating rapidly due to the time critical nature of finance approvals and pending settlements.

Eligibility should be confirmed to applicants rapidly by the SRO, so they are able to access finance and so a project can proceed quickly, and the certainty of the HomeBuilder grant funding is clear.

This can be facilitated by an online application process with a checklist based automated response. Failure to do so will further restrict the timeframes available for Victorians to access this grant.

**Recommendation: Immediately make clear the application process and mechanism for applying for HomeBuilder and provide early advice to interested applicants as to their eligibility so that they can make informed purchasing and investment decisions.**



## 5. Clarity around payment timing

Clarity is required about when the HomeBuilder payment actually gets made. Our view is that this should be sooner rather than later, although we recognise the need for balance between appropriate accountability and early access to the grant funds. As with the First Home Owners Grant, applications should be integrated with lending practices to allow lending organisations to assist homeowners with obtaining the grant.

**Recommendation: Align the grant payment with 'commencement' timing to allow applicants the certainty of having the funds released as the first costs are payable.**

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## Appendix A – Domestic Building Contracts Act 1995 (Sections 5 and 6)

### DOMESTIC BUILDING CONTRACTS ACT 1995 - SECT 5

#### Building work to which this Act applies[1]

- (1) This Act applies to the following work—
- (a) the erection or construction of a [home](#), including—
    - (i) any associated work including, but not limited to, landscaping, paving and the erection or construction of any [building](#) or fixture associated with the [home](#) (such as retaining structures, driveways, fencing, garages, carports, workshops, swimming pools or spas); and
    - (ii) the provision of lighting, heating, ventilation, air conditioning, water supply, sewerage or drainage to the [home](#) or the property on which the [home](#) is, or is to be;
  - (b) the renovation, alteration, extension, improvement or repair of a [home](#);
  - (c) any work such as landscaping, paving or the erection or construction of retaining structures, driveways, fencing, garages, workshops, swimming pools or spas that is to be carried out in conjunction with the renovation, alteration, extension, improvement or repair of a [home](#);
  - (d) the demolition or removal of a [home](#);
  - (e) any work associated with the construction or erection of a [building](#)—
    - (i) on land that is zoned for residential purposes under a planning scheme under the [Planning and Environment Act 1987](#) ; and
    - (ii) in respect of which a [building](#) permit is required under the [Building Act 1993](#) ;
  - (f) any site work (including work required to gain access, or to remove impediments to access, to a site) related to work referred to in paragraphs (a) to (e);
  - (g) the preparation of plans or specifications for the carrying out of work referred to in paragraphs (a) to (f);
  - (h) any work that the regulations state is [building](#) work for the purposes of this Act.
- (2) A reference to a [home](#) in subsection (1) includes a reference to any part of a [home](#).

[5.5](#) amended by No. 15/2016 [s. 4\(2\)](#) (ILA s. 39B(1)).

## DOMESTIC BUILDING CONTRACTS ACT 1995 - SECT 6

### Building work to which this Act does not apply

(1) This Act does not apply to the following work—

[S. 6\(1\)\(a\) repealed by No. 15/2016 s. 4\(1\).](#)

\* \* \* \* \*

- (b) any work in relation to a farm [building](#) or proposed farm [building](#) (other than a [home](#));
- (c) any work in relation to a [building](#) intended to be used only for business purposes;
- (d) any work in relation to a [building](#) intended to be used only to accommodate animals;
- (e) design work carried out by an [architect](#) or a [building](#) practitioner registered under the [Building Act 1993](#) as an engineer or draftsperson <sup>[2]</sup>;
- (f) any work involved in obtaining foundations data in relation to a [building site](#);
- (g) the transporting of a [building](#) from one site to another.

[S. 6\(2\) inserted by No. 15/2016 s. 4\(2\).](#)

(2) This Act or a provision of this Act does not apply to any work that the regulations state is not [building](#) work to which this Act or that provision (as the case requires) applies.