



9 August 2018

Corporate and International Tax Division  
The Treasury  
Langston Crescent  
PARKES ACT 2600

**RE: Submission on Treasury Laws Amendment (Making Sure Foreign Investors Pay Their Fair Share of Tax and Other Measures) Bill 2018**

Thank you for the opportunity to comment on the Exposure Draft of the Treasury Laws Amendment (Making Sure Foreign Investors Pay Their Fair Share of Tax and Other Measures) Bill 2018. Our comments are specific to the section of the Bill on Managed Investment Trusts (MIT). We commend the Federal Government for this refined approach to MIT's ability to invest in rental housing while maintaining a mechanism to encourage private investment in the affordable housing market.

The National Affordable Housing Providers Ltd (NAHP) is a representative peak body whose purpose is to represent the collective interests of NRAS Approved Participants, in the Constitutional Objective of assisting in the delivery of affordable housing across Australia. Our members hold responsibility for over 50% of all NRAS delivery. NAHP members are a mix of not for profit housing organisations, commercial and ASX listed entities, representing the broad interests of companies engaged in the field of providing private affordable housing in Australia, including NRAS and other State and Federal Government initiatives.

NAHP believes MITs have good potential for facilitating institutional investment, a much sought after objective for increasing the supply of affordable housing. NAHP commends the Government for enabling MITs to invest in residential housing and not just exclusively affordable housing. This will facilitate MIT investment in developments where affordable housing is part of a mixed tenure approach that incorporates social, affordable and private housing. This model is the preferred approach in most public housing redevelopment projects and represents best practice for positive social outcomes while delivering sound financial returns to investors. This will enhance MITs as a vehicle for investment in the emerging build to rent residential market which shows much promise for facilitating institutional investment into long term rental accommodation.

NAHP continues to have concern over the effectiveness of the Capital Gains Tax discount, being an additional 10% for the utilisation of housing as affordable housing. This concern applies to the benefit for MIT's and also for Owners of

Affordable Housing – such as the 35,000 Affordable Houses currently under the NRAS scheme. Post NRAS these properties will likely return to full market rental – as the CGT 10% exemption will not likely equate to the difference in income derived between Market Rent and Affordable Rent. An Investor would need to be confident that there was a substantial capital appreciation to offset the lost income.

Our skepticism about the 10% additional CGT discount also extends to its effectiveness as an incentive for affordable housing investment by managed investment trusts (MIT). The same issues noted above re weighing the financial benefit against additional costs apply here. NAHP is uncertain that holding the investment for 10 years will enhance its appeal as a financial incentive to invest in affordable housing. An investor would need to be confident that there would be a steady increase in the value of the property and that management and compliance costs do not negate the financial benefit of the additional discount.

NAHP provided comments during the consultation on the Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures No 2) Bill 2017 in respect to how our the affordable housing provision would be implemented and the compliance role of community housing providers. NAHP's membership includes community housing providers who may benefit from the management opportunities implicit in this Bill. Our comments on this Bill primarily focus on these same concerns which do not appear to have been adequately addressed:

- There is no explicit reference to a definition of *providing affordable housing*. The Bill notes that States and Territories have their own affordable housing policies to encourage affordable housing investment and this Legislation is intended to compliment those policies. However, unlike social housing not every State and/or Territory has defined affordable housing tenant eligibility criteria and specific discounted rent rates. Where such guidelines exist, they will vary from jurisdiction to jurisdiction. This adds a layer of complexity to the administration and compliance requirements of the initiatives, especially for those larger community housing providers who operate in multiple jurisdictions. Tenant eligibility guidelines and a discounted rent policy should be defined at a commonwealth level.
- As was the case in the previous Bill, the compliance regime is unclear and ambiguous in the Legislation. The investors will rely on a certificate generated by the community housing provider to claim their concessional tax benefit. The Bill only requires that the certificate verify that the dwelling was tenanted or available to be tenanted; not a commercial dwelling; and was exclusively managed by a community housing provider. There is no reference to an affordable housing benchmark (even a State/Territory one) for tenant eligibility or discounted rent calculation.

- Central to providing management and compliance services is a clear understanding of what information and documentation community housing providers will need to generate the certificate of compliance the community housing provider gives to investors. There is no detail on what will be required. The lack of detail makes it impossible to determine the costs and risks associated with participating in this initiative and developing an appropriate business model for management.

Last, there is a key component missing from the Legislation that is essential to the success of any affordable housing initiative. In order to provide housing at an affordable price for low and moderate income households, a subsidy is necessary in order to fill the rental yield gap. These tax treatment measures are a step in the right direction but without a subsidy they will fail to attract the large scale investment needed to increase the supply of secure, long term affordable housing.

Should you have any questions or require any further information, please contact Carol Croce, Project Officer at [REDACTED] or [REDACTED]  
[REDACTED]

Kind regards,

A handwritten signature in black ink, appearing to be 'David Somerville', written in a cursive style.

David Somerville  
NAHP Chairperson