

11th January 2023

Personal and Indirect Tax, Charities and Housing Division
Treasury
Langton Cres
Parkes ACT 2600
Via email: housing@treasury.gov.au

Dear Treasury

The ACTU is the peak body for Australian Unions and since its foundation in 1927 has played the leading role in advocating on behalf of working people, to improve workers' living standards and to provide a better future for working people.

The ACTU welcomes the Housing Legislative Package that provides for a broad-based housing reform agenda for both affordable housing and the creation of secure jobs, to tackle Australia's housing affordability crisis. The ACTU also fully supports that recommendations of the SDA, an affiliated member of the ACTU, in their submission to you, which aims to realise the vision of affordable housing, by enabling the Housing Legislative Package.

In response to the exposure draft, the following recommendations for considerations are sought.

Exposure Draft – Housing Australia Future Fund Bill 2023 (the “Fund”)

The legislation should provide clear definitions of what “social and affordable housing” is. It should also include measures to ensure such housing is of a decent standard.

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Any Federal Government investment vehicle, such as this proposed Fund, should also require that any entity receiving investments or any other form of support from the Fund, is ensuring that:

- (i) any worker it employs or engages directly or indirectly has their labour standards respected, and that,
- (ii) these investments are creating secure, local jobs,

Labour standards includes the entity respecting and proactively participating in collective bargaining and adopting an open and positive attitude to the activities of trade unions. Unionised workplaces are safer, more productive, have more secure work, better pay and better investment in staff training and development to build their careers.

The Bill, as currently drafted does not provide for these commitments. We encourage the Government to amend the Exposure Draft Bill to include:

- explicit commitments to these two objectives in the purpose of the fund.

- Require the fund to make policies with regard to these two objectives (consider the points on labour rights made below) and ensure that any entity it invests in or receives assistance from the fund is bound by these policies.
- Require those entities, as well as the Fund itself, to report on implementation of those policies.
- Provide a complaints mechanism to enable a potential breach of those policies to be quickly remedied.

Further, the work of the Fund should also be consistent with the Government’s Buy Australia Plan, and its Apprenticeship Guarantee, especially as the Fund will drive investment into residential construction.

Labour Rights

All investors, including specialist investment vehicles as proposed in the exposure draft, and private sector investors encouraged to invest via these proposals, should implement respect for fundamental labour rights across their asset portfolios. UNGPs and OECD Guidelines for MNEs establish investors’ responsibilities to uphold human rights, including fundamental labour rights. Importantly, fundamental labour rights are considered “enabling rights” because they can foster respect for other human rights such as gender equality, health and safety and decent working conditions. The ILO Core Conventions are considered the minimum standard of “enabling rights” that serve as a precondition for the attainment of other rights related to the improvement of work conditions. The ILO Declaration on Fundamental Principles and Rights at Work obliges all ILO member states to respect, promote, and realize fundamental labour rights, irrespective of whether they have ratified individual conventions.

The Committee on Workers’ Capital Baseline Expectations for Asset Managers on Fundamental Labour Rights (“CWC Baseline Expectations”) ^[1] is a framework for investors that is specific to labour rights. It suggests tangible steps that investors can take, with a progression from “baseline” to “leading practice”. Asset ownership confers responsibility to act, regardless of the form ownership takes. Asset owners who contract with asset managers for the stewardship of their investments still have responsibility for those investments and may, through explicit procurement policies, communicate their expectations of their asset managers regarding labour rights. For example, through asset manager selection and oversight, asset owners can make clear the labour rights policies they expect their asset managers to adopt and implement as they carry out their contracted investment stewardship activities. Through contracted investment stewardship providers, all investors can implement these guidelines and benefit from meaningful dialogue with trade unions, national and global union federations, the ILO and other authorities on work and labour relations. Trade unions have extensive knowledge and experience in the implementation of labour rights. They can aid policy development, assist oversight, and support risk mitigation.

Investor respect for fundamental labour rights requires a clear policy commitment that is publicly available and actively circulated internally and externally. It should describe the processes that they have in place to perform due diligence, respond to concerns from trade unions, escalate engagements and provide remedy as appropriate. The policy advocacy that investors participate in should reflect their commitments to respecting fundamental labour rights. Asset ownership provides investors many tools for the implementation of their labour rights responsibilities, however not all tools provide the same value.

Appropriate policy commitments, governance structures and due diligence mechanisms that are supported by trade unions are therefore vital.

^[1] Available at: <http://www.workerscapital.org/baseline-expectations-for-asset-managers-on-fundamental-labour-rights>

The role of Industry Super Funds

Superannuation can play an important role in housing via its investment in housing initiatives. The union movement believes in the capacity of industry super funds as investors to use capital both in the national interest and in workers' interests to create secure jobs and a secure retirement, and the Housing Accord is an ideal demonstration of this ability. Super funds in this capacity are able to accelerate the important social impact of this investment vehicle and support the increased availability of acutely needed social housing. It is important though that a coordinated policy response is provided that delivers the right structure and incentives for superannuation funds to invest.

There is also a need to ensure that the performance benchmarks that superannuation funds are required to meet under the *Your Future Your Super* Legislation, is reviewed to meet the objectives of the *Housing Australia Future Fund* Bill. The performance benchmarks should be net of fees, simple, risk adjusted, and ensure they do not inadvertently discourage investments in nation-building projects or innovative investment ideas. At present, the measures chosen, categories deemed, and life cycle of the performance test discourage active and direct investment into projects, vehicles, and companies with high upfront costs but high potential. Funds' ability to participate in ultimately beneficial, investments is hampered by the current construction of the performance test. The benchmarks chosen, as well, do not reflect a funds' broader obligation to invest in the long-term best financial interests of members. Consideration of environmental, social, and governance risks is ignored in the construction of the benchmarks and could therefore create unintended consequences that impact the long-term opportunities for social housing investment. The current performance test should therefore be altered to mitigate risk for superannuation funds as part of this process.

We welcome the opportunity to discuss this letter further with you.

Yours Sincerely

A handwritten signature in black ink, appearing to read "Scott Connolly". The signature is fluid and cursive, with a large, sweeping underline that loops back under the name.

Scott Connolly
Assistant Secretary