Submission on Legislation to Increase the Supply of Affordable Housing

September 2017

Thank you for the opportunity to comment on the Exposure Draft of the Treasury Laws Amendment (Reducing Pressure on Housing affordability Measures No.2) Bill 2017 and the Income Tax (Managed Investment Trust Withholding Tax) Amednement Bill 2017. We commend the Federal Government for its focus on housing affordability and seeking mechansims to encourgage 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.

Our comments on the Bills primarily focus on broader policy objectives rather than on the specifics of the legislation. However, we do have some concerns about several aspects of the amendments that are specific to community housing providers and their participation in the operation of these inititiaves.

NAHP is sceptical that the additional 10% capital gains tax (CGT) discount will result in a significant uptake in affordable housing investment. The benefit to the investor of this additional discount must be weighed against the lower rental yield from 3 years or more of an affordable housing rent, i.e. significantly discounted market rent. For 'mum and dad' investors who self-manage their properties, the requirement that a community housing provider must manage the properties will result in new costs as will any additional expenses for compliance activities, i.e. determining and enforcing tenant eligibility, etc. These expenses are likely to negate any financial benefit the investor would realise with the additional 10% CGT discount.

Further, NAHP does not believe the additional 10% CGT discount will provide a long term financial investment in affordable housing. Since the financial gain from the added discount can only be realised when the property is sold, there is an incentive to either sell at the earliest opportunity or only hold the dwelling in the affordable housing market for the minimum time to access the added discount. As the examples in the Explanatory Material highlighted, there is an expectation that investors will 'dip' in and out of the affordable housing market. This could result in an undesirable fluctuating affordable housing market and deliver only a short term housing affordability solution.

Our scepticism 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.

As investors will be able to access the additional CGT discount on purchase of existing properties, the initiative may increase the amount of *investment* in affordable housing but is unlikely to stimulate new supply of long term affordable housing as NRAS did by delivering over 34,000 new affordable housing dwellings. The CGT and MIT initiatives could result in a shift in investment from dwellings at full market rent to dwellings rented at a discounted market rent. However, as noted above, this is likely to be short term and will not address the need for secure long term affordable housing.

NAHP believes MITs have good potential for facilitating institutional investment, a much sought after objective for increasing the supply of affordable housing. NAHP was disappointed that the Legislation limits MIT residential investment exclusively to affordable housing. This will preclude 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. By restricting management to community housing providers and requiring an affordable housing investment be held for 10 years in order to qualify for favourable tax treatment, MITs will not be an appropriate conduit for residential property investment. This will preclude 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.

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.

NAHP's membership includes community housing provider who may benefit from the management opportunities implicit in this Legislation. We understand the Community Housing Industry Association (CHIA) submission on this Legislation will cover the concerns of these members in greater detail and we endorse their comments. The main concerns for our NAHP members are:

- The tenant eligibility and rent discounts are State based and 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

- The compliance regime is unclear and ambiguous in the Legislation. The lack of detail makes it difficult to determine the costs and risks necessary for developing a business model for management.

- Central to providing management and compliance services is a clear understanding of what information and documentation community housing providers will need to submit to the Tax Commissioner to generate the certificate of compliance the community housing provider gives to investors. There is no detail on what will be required. There is an added concern that the timeline for establishing these requirements is short given the initiative is due to begin 1 January 2018.

- The Legislation gives the Tax Commissioner authority to provide information to the relevant state and territory community housing registrars about community housing providers if the Tax Commissioner believes the provider should no longer be registered. It is unclear what the objective is for this authority and there is a lack of any guidelines or parameters on what actions would trigger such an intervention. This needs to be clarified before the Legislation is implemented.