Additional Comments from Labor Senators

1.1 Labor Senators are broadly supportive of these bills and won't stand in the way of them, but at the outset want to reiterate that the Government's so called 'comprehensive affordability plan' is a sham. The plan is heavy on slogans, light on substance and many stakeholders have criticised the piecemeal approach to reform in this area.

1.2 Labor Senators support the measures in these bills related to capital gains tax changes for foreign residents and near-new dwelling interests.

1.3 Regarding foreign residents, Labor Senators note answers to Questions on Notice that confirm that temporary tax residents are not impacted:

> The changes to deny foreign residents access to the main residence capital gains tax exemption, contained in the Treasury Laws Amendment (Reducing Pressure on Housing Affordability No. 2) Bill 2018, will not affect temporary tax residents who meet the definition of Australian tax resident at the time they sell their main residence.[1]

1.4 Labor Senators wish to make a number of comments on the elements in these bills related to the additional capital gains tax (CGT) discount for affordable housing:

- While these bills implement the measure 'expanding tax incentives for investments in affordable housing' set out in the budget,[2] these bills do not contain any elements which would enable Managed Investment Trusts (MITs) to invest in affordable housing, as set out in the measure 'affordable housing through Managed Investment Trusts'.[3] This measure was announced in May 2017. It is now March 2018 and legislation has yet to be introduced into Parliament. A Government committed to genuine reforms in housing affordability would have acted with more haste.
- Labor Senators note comments from the National Affordable Housing Consortium (NAHC) which states that the Government has failed to provide clear evidence about the benefits of introducing this measure:

  > The increase in the discount from 50% to 60% is grossly inadequate to drive investment into sub market rental housing. We need an evidence-based approach to the level of incentives required and the distribution of those benefits between the investor and tenant outcomes.[4]

- The Property Council of Australia also shared this same concern and had doubts about how effective this tax discount would be:

1 Additional Documents, Answers to written questions on notice, received from Treasury on 19 March 2018, p. 1.

2 Budget Paper No. 2—Budget Measures 2017-18—Part 1: Revenue measures, p. 29.

3 Budget Paper No. 2—Budget Measures 2017-18—Part 1: Revenue measures, p. 26.

4 National Affordable Housing Consortium (NAHC), *Submission 12*, p. 4.

> …we believe that this incentive—in isolation—will be ineffective in encouraging institutional scale investment in the supply of affordable housing for members of the community earning low to moderate incomes.[5]

- Questions on Notice from Treasury officials also failed to adequately explain how this tax incentive would lead to new supply:

> Q: What level of new affordable housing supply is estimated to be created in each year over the forward estimates due to this measure?
>
> A: This measure aims to create the right incentives to encourage private investment in affordable rental housing. The value of this incentive and subsequent take up of this measure will depend on individual circumstances, including the nominal capital gain on an individual's investment and marginal tax rate.[6]

- Given this evidence, it is incumbent on the Government to adequately demonstrate the benefits expected from this measure and how it will contribute to new supply of affordable housing.
- Labor Senators are also not convinced that the increase to the CGT discount will actually add to the amount of housing stock, and not simply cause more churn through. The minimum holding period in order to qualify for the increased capital gains tax discount appears to be unduly short to provide stable, long-term increases in the stock of affordable housing. It may result in affordable rental dwellings rapidly falling out of the affordable rental sector, particularly if prices continue to rise rapidly in markets such as Sydney and Melbourne.

1.5 Regarding MITs, it should not be forgotten that the Treasurer and Minister Sukkar announced in September 2017, without warning, that MITs would no longer be able to invest in residential property, with the exception of affordable housing.

1.6 This shock move could kill the fast emerging 'build-to-rent' movement that has already taken off in the US and more recently in the United Kingdom. It’s a potential new billion dollar addition to the Australian real estate market.

1.7 The Government tells the public that increasing housing supply is a crucial part of dealing with Australia's housing affordability crisis. Labor Senators agree. However, this bizarre banning of MIT purchases of residential property will directly hit housing supply.

1.8 It's one thing to have a discussion with the property sector on what a Government may or may not want to do to encourage or facilitate 'build-to-rent' in Australia, but it's another to kill it before it even begins.

5 Property Council of Australia, *Submission 4*, p. 1.

6 Additional Documents, Answers to written questions on notice, received from Treasury on 19 March 2018, p. 2.

1.9 The Property Council, in their submission to this inquiry, continues to reiterate its support for the 'build-to-rent' sector. They also make concerning comments that the Government's actions have increased sovereign risk:

> The September 2017 Treasury Laws Amendment (Reducing Pressure on Housing Affordability No. 2) Bill has created significant uncertainty for investors and increased sovereign risk for international capital looking to support the supply of new residential in Australia.[7]

1.10 Labor Senators continue to urge the Treasurer to reconsider this policy on the run and engage properly with experts in the field instead of making it up as he goes.

1.11 Labor Senators believe that the better policy approach to these tax issues as they affect the emerging build-to-rent sector, would have been to review and consider them in a holistic way—something that Federal Labor has been calling for since October 2017.

1.12 Finally, when it comes to a comprehensive plan for housing affordability, only the Labor Party has a plan that will deliver for all Australians. Labor's announcements on housing affordability include:

- Reforming negative gearing and capital gains tax concessions, resulting in the construction of 55,000 new homes and a boost to employment by 25,000 new jobs per year;
- Improving the National Housing Affordability Agreement, re-establishing the National Housing Supply Council and appointing a dedicated Minister for Housing and Homelessness;
- Establishing a bond aggregator to increase investment in affordable housing;
- Working closely with the States and Territories on supporting and reforming the national housing agreement to strengthen benchmarks across the housing affordability spectrum such as housing supply, planning reform and inclusionary zoning;
- Providing $88 million for a Safe Housing Fund to increase transitional housing options for women and children escaping domestic and family violence, young people exiting out-of-home care and older women on low incomes who are at risk of homelessness;
- Boosting homelessness support for vulnerable Australians;
- Facilitating a COAG process to introduce a uniform vacant property tax across all major cities;
- Limiting direct borrowing by self-managed superannuation funds; and
- Increasing foreign investor fees and penalties.

7 *Submission 4*, p. 21.

Senator Chris Ketter
Deputy Chair

Senator Jenny McAllister
Senator for New South Wales

Senator Doug Cameron
Senator for New South Wales