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Red Tape Committee
Department of the Senate
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Red Tape Committee - Inquiry into the policy and process to limit and reduce red tape

The Housing Industry Association (HIA) is pleased to provide the following comments in relation to the Red Tape Committee's inquiry into the policy and process to limit and reduce red tape.

The residential building industry, including the home improvements and alterations market, is a key component of the Australian economy. The residential building industry is also the dominant sector in the building and construction industry.

HIA estimates that more than 90 per cent of the residential building industry is comprised of small businesses and sole traders.

With such a high number of small businesses, this sector is particularly vulnerable to the negative impact of red tape and government regulation.

The residential building industry is heavily regulated when compared to other building sectors.

Home builders must manage a complex web of national, state and local laws, regulations and codes. These range from planning, design, environment, health and safety, to local authority inspection and certification and a multitude of building, electrical, mechanical and plumbing processes.

These businesses must also comply with a legislative framework that spans licencing, ATO contractor reporting requirements, dispute resolution, builders warranty obligations and contractual requirements.

These regulations impose cost, barriers and administrative burdens on firms that distract them from their principal objective of growing and running a profitable business.

In responding to this inquiry, HIA has focused on four key areas of red tape and regulatory burden that impact on the residential building industry:

1. Independent Contracting

Currently the common law and a plethora of state and Commonwealth laws use conflicting statutory definitions of employees and contractors. These tests are often subjective, uncertain and for practical purposes unreliable. This is a constant source of confusion, uncertainty and risk for those operating in the residential building industry.

For promoting greater consistency in the legal treatment of contractors and employees there should be one single national objective test for determining who is a trade contractor for the purposes of all relevant Commonwealth and state legislation.

The appropriate test is the current “results” test set out in Division 84 of *the Income Tax Assessment Act 1997* which is a part of the Alienation of Personal Services Income (APSI) rules which allows tax payers to self-assess against the test of “independence”.

HIA’s policy on APSI and the Results Test is set out at **Attachment A**.

2. Occupational Licensing

On 14 May 2018 HIA made submissions to the Senate Red Tape Committee in response to an inquiry into the effect of red tape on occupational licensing.

Those carrying out residential building work across Australia are generally subject to some level of occupational and other licensing requirements. While HIA supports the operation of an appropriate licensing framework for the residential building industry, licensing is an onerous and resource intensive regulatory option for both governments and businesses subject to the requirements. It adds costs to business transactions which are subsequently passed onto the consumer. It also restricts market entry, reducing completion and in turn pushing up price.

A number of these observations are echoed in the Senate Red Tape Committee interim report considering the effect of red tape on Occupational Licensing.

Those submissions are relevant to this inquiry and are included at **Attachment B**.

3. Taxation

The residential building industry is one of the most highly taxed sectors of the economy. The CIE have estimated that the cost of direct and indirect taxes on property taxes on housing contribute up to 44 per cent of the cost of a house and land package. Around \$1 in every \$4 of state government revenue is raised from a tax on housing and around \$1 in \$10 of federal revenue is raised from a tax on housing.

This represents a significant cost burden on the industry and is a major cause of the affordability challenge.

The 2011 CIE Report *Taxation Generated from the Housing Sector* is included at **Attachment C** and this Report provides a detailed analysis of the tax imposts on housing.

HIA’s policy on Taxation and Tax on Housing is set out at **Attachment D**.

4. Planning Regulation

The administrative cost of building a house is a matter that the HIA has raised for many years. Government policies that restrict the supply of housing also raise the price of housing. Removing punitive taxes and unnecessary processes in the supply of shovel ready land and new houses will increase the supply of new homes and ease the affordability challenge.

In March of this year the Reserve Bank of Australia assessed the administrative costs hidden in the cost of home building. The RBA Report, "*The Effect of Zoning on Housing Prices*" estimated that zoning restrictions in Sydney raise the price of a detached house prices by \$489,000. This compares to the cost of the dwelling in building costs alone, which is \$395,000 and the cost of land which is estimated as \$276,000.

It is a concern that the administrative burden of building a home exceeds the construction costs of the home.

The same Report also found that the 'Zoning Effect' also adds \$290,000 more to the cost of an apartment in Sydney, than in Brisbane. This highlights the impact of different planning regimes can have on the price of a new home.

Please find the full report at **Attachment E**.

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED

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