



10 October 2018

Senate Standing Committee on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sir / Madam

MIT Residential Income – Student Accommodation

We refer to the provisions of the *Treasury Laws Amendment (Making Sure Foreign Investors Pay Their Fair Share of Tax and Other Measures) 2018 Bill* (the **Bill**) which would ensure that all student accommodation be considered as MIT Residential Housing income and therefore subject to a 30% withholding rate.

These provisions of the bill are inconsistent with earlier drafts of the legislative package and have been introduced without industry consultation. They will harm the higher education sector, reduce exports and employment, decrease availability of housing, increase pressure on infrastructure and damage Australia's reputation as a destination for investment. The proposed changes to the tax treatment of student accommodation will not encourage domestic investment in the sector and reflect a misunderstanding that student accommodation is a substitute for the broader housing rental market.

Background on Scape

Scape Australia Management Pty Ltd (**Scape**) is an Australian developer, owner and operator of purpose-built student accommodation (**PBSA**).

PBSA is accommodation designed and built specifically for students close to a university. This means shared apartments or basic studio apartments combined with communal areas which meet student needs (individual/group study areas, kitchens, lounge and bike storage). There are many differences between PBSA and standard residential apartments but notably the individual rooms are smaller than residential apartments and no parking is provided. The only residents permitted to stay in PBSA are students, this is monitored and enforced by Scape. Scape provides pastoral care as well as social, health and education programs which are tailored to the needs of students ensuring they enjoy a safe and enriching environment.

Scape currently operates 1,600 PBSA beds across three facilities in Brisbane, Sydney and Melbourne. All three of these cities suffer from an acute shortage of PBSA. Scape has an identified pipeline of ten further projects which will create 6,000 more beds if built. Scape's target is to establish a portfolio of 10,000 beds in Australia. The accommodation provided by Scape is all off campus and direct let, it does not receive public funding or any financial support from universities.

Scape was established in Australia in 2015. Since then it has raised \$1.1bn of equity from foreign institutional investors (global pension, sovereign and life insurance funds) in two development funds. When coupled with debt Scape intends to invest over \$2bn in construction of PBSA in Australia. In three years, Scape has employed 90 staff nationally, this will rise to 250 employees should it achieve its target.

The deployment of the capital raised to date and creation of jobs both in the construction industry and within our facilities will be jeopardised by changing the treatment of PBSA from commercial residential to residential as drafted in the Bill.



Negative impact on the economy

Higher education is Australia's third biggest export. It directly generated \$32.2bn¹ in export revenue for Australia in 2017 and supports 130,000 jobs. It is also the largest export for both New South Wales and Victoria. The Go8 Universities alone contribute \$66.4bn to the Australian economy². The total number of international students enrolled in Australia has grown at a cumulative annual growth rate of 9% between 1994 and 2017 from 100,000 to 800,000.

However, there is an acute shortage of PBSA in Australia with a PBSA bed available for only 1 in every 10 students³. Lack of accommodation is a constraint on the ability of universities to continue to drive exports and jobs and there is still a long way to go to provide sufficient purpose-built accommodation designed for students.

The proposed taxation changes will deter the provision of more beds for students. There will be a near-term impact on construction employment⁴ and a longer-term impact on employment numbers as each of our buildings employs 15 to 25 staff.

Amendments will not encourage greater domestic investment in PBSA

The Bill is based on a view that existing tax law creates a competitive disadvantage for Australian investors compared to foreign pension and sovereign wealth funds who can access lower tax rates.

In raising \$1.1bn in equity commitments over the last four years, Scape engaged with many Australian investors (notably domestic superannuation funds) as well as foreign capital sources. Australian superannuation funds enjoy concessional tax rates similar to the 15% withholding tax currently available to qualifying foreign investors therefore they are not currently disadvantaged. However domestic capital has not been willing to invest in the emerging PBSA sector. This is because they prefer to invest in stabilised "core" real estate such as shopping centres and office buildings rather than taking the risk of investing in development assets.

The current shortage of PBSA means the only way to invest in this sector is via development funds and the only investors willing to take development risk is foreign capital who have experience in supporting the PBSA sector overseas. Therefore, the proposed changes will discourage further foreign investment in PBSA without encouraging domestic capital to invest and so exacerbate the shortage in PBSA supply.

Pressure on cities

The accommodation we provide alleviates the strain on capital cities. PBSA provides a high-density accommodation solution for students in our capital cities. This means that fewer students are left competing with key workers for residential accommodation at the cheaper end of the price range.

Given the current acute shortage of PBSA, passing the Bill in its current form will discourage further investment in the sector, increase housing rents and residential housing values and drive key workers from centres of employment increasing the strain on transport infrastructure.

All of the PBSA assets we have built, or which are in planning are located within 1km of a major university. This eases pressure on the transport system since students can walk to classes.

PBSA is not a substitute for residential

The Explanatory Memorandum to the Bill sets out that the Government does not want residential housing to benefit from a concessional tax rate. We also understand Treasury is concerned that PBSA can be interchangeably used as residential housing. This is incorrect for a number of reasons:

- The design of the buildings does not lend itself to residential accommodation with small rooms and

¹ Source: *Australian Bureau of Statistics 2018* total spending on tuition, accommodation, living expenses

² Source: *The economic impact of Group of Eight universities* (London Economics)

³ Source: *Australian Student Accommodation Market (2016)* (Savills)

⁴ An average Scape development for 500 beds creates 200 construction industry jobs over 2 years.



large communal areas. They are not simply apartments.

- Planning approvals are for PBSA, not the broader population.
- In booking a room all students have to provide evidence of enrolment at a university.
- The programs and events we run for residents are targeted solely at students.

Our buildings are not a substitute for broader residential and should not be treated as such. This view was upheld in a 2012 federal court decision⁵ which found PBSA to be “commercial residential” and therefore closer in nature to hotels, hostels and boarding houses.

Damaging Australia’s reputation as a destination for investment

Since the Managed Investment Trust regime was introduced in 2008 there have been a number of changes to the final withholding tax payable by investors. In 2013 the rate doubled from 7.5% to 15% and this amendment would double the rate again. The 15% rate was set in 2013 so as to be comparable to equivalent rates of taxation for investors in the US, UK and Canada.

Scape’s second development fund of \$500m was raised over the last year with investors committing on the basis of the tax law in place during that time. This unforeseen change to the treatment of PBSA has been drafted with no industry consultation. It places at risk the deployment of capital raised in construction projects and damages Australia’s reputation as a risk-free jurisdiction in which to invest.

A simple amendment is required to the Bill

All of the concerns highlighted above would be addressed by the following amendment to the Bill which deletes the specific reference to PBSA and reinstates it to a common treatment with other forms of commercial residential.

12-452 Meaning of residential dwelling asset

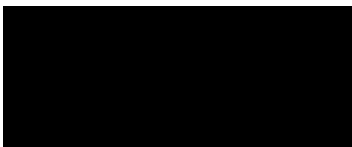
(1) A **residential dwelling asset** is an asset that:

- (a) is a *dwelling; and
- (b) is *taxable Australian real property; and
- (c) is ~~any of the following:~~

- ~~_____ (i) *residential premises (other than *commercial residential premises);~~
- ~~_____ (ii) premises used primarily to provide accommodation for students (other than in connection with a school (within the meaning of the *GST Act)).~~

We would be delighted to discuss these matters further in person or at the Senate Committee hearing.

Kind regards



Stephen Gaitanos
Managing Director
Scape Australia Management Pty Ltd

⁵ ECC Southbank Pty Ltd as trustee for Nest Southbank Unit Trust v Commissioner of Taxation [2012] FCA 795