National Australia Bank
800 Bourke St
Docklands VIC 3008

15 June 2017

Mr Mark Fitt
Committee Secretary
Senate Standing Committee on Economics
Via email: economics.sen@aph.gov.au

Dear Mr Fitt

## RE: MAJOR BANK LEVY BILL 2017

Thank you for providing National Australia Bank Limited ("NAB") with the opportunity to make a submission to the Senate Economics Legislation Committee's inquiry into the *Major Bank Levy Bill 2017*. NAB appreciates the opportunity to participate in this extremely truncated inquiry process.

Shortly after the announcement of the Major Bank Levy ("levy") in the Federal Budget, I was in North America meeting with investors, including some of the largest global investors. I can assure the Committee that the policy has been noted by offshore participants in Australia's financial markets. Interest in the levy has been significant and largely negative in the context of it raising political risks associated with the operation of the Australian financial system and the general attractiveness of Australia as an investment destination. There was also surprise the Government had imposed a bank levy similar to the United Kingdom ("UK") given the vastly different financial performance of Australian banks relative to the UK during the global financial crisis ("GFC").

As has been widely acknowledged and previously highlighted by NAB before a Parliamentary committee,[1] Australia has a structural funding deficit and is a net importer of capital and funding. Accordingly, Australian banks, more than global peers, rely on offshore wholesale funding and the confidence of credit rating agencies and investors to fill the difference between the amount lent and what is held in customer deposits. An uncertain policy environment, or instability in local markets, can ultimately impact the confidence investors have in Australia.

NAB continues to believe the process for developing and consulting on the levy reflects poorly on public policy making in Australia. That NAB had just 39 hours to respond to draft exposure legislation to enact the levy is an example of this. NAB hopes the Committee's Inquiry will bring some transparency to the legislative passage of the Bill and will assist in addressing unintended consequences.

NAB notes that several key recommendations from our prior submissions to the Department of Treasury ("Treasury") have not been reflected in the legislation. As such, NAB's concerns about the levy remain, particularly in relation to several areas:

- Additional costs for Australians;
- Inconsistencies between the levy's objective and the prudential objective of 'unquestionably strong';
- Impact on the competiveness of Australian banks in certain markets;
- Impact of the levy on the functioning of financial markets;
- The need for a sunset clause in the legislation;
- A mechanism for waiving the levy; and
- Ministerial discretion.

Further information on each of these areas is detailed below:

### 1. Additional costs for Australians

Ultimately, the levy is intended to impose an additional cost on NAB. As previously outlined to Treasury in NAB's 15 May submission, this cost cannot simply be absorbed. As announced to the Australian Securities Exchange on 22 May, applied to NAB's business as it stands, NAB estimates the levy could cost

[1] NAB slide pack presented to House of Representatives Standing Committee on Economics, 6 October 2016. Available at http://news.nab.com.au/4241-2/

NAB approx. $350m annually, or $245 million post-tax. No decisions have been made on how NAB will manage this cost but it will be borne by one or more of NAB's ten million customers; 570,000 shareholders; 1700 suppliers; or our 34,000 employees. More information on NAB's engagement with each of these stakeholders is contained in Appendix A.

The exclusion of Financial Claims Scheme ("FCS") deposits does not isolate the cost impost from mortgages and other customer lending. The amount of liabilities subject to the levy is significantly higher than the amounts which have actually been advanced to our customers, despite exclusions such as FCS deposits. This is due to a number of calculation issues (e.g. double counting of intercompany balances) and the funding banks require for holding liquid assets and other risk management practices which support those loans to customers.

**2. Inconsistencies between the levy's objective and prudential objective of 'unquestionably strong'**

The inclusion of funding for high quality liquid assets ("HQLAs") (~$90bn for NAB) and double counting of internal intercompany balances (essentially securities such as residential mortgage-backed securities ("RMBS") which support liquidity and funding) in the calculation of the levy payment creates a system-wide disincentive to further improve liquidity buffers. This runs contrary to a recent APRA letter to ADIs encouraging the further build-up of liquidity buffers.

In addition, covered bonds, which are also impacted by the double count of inter-company balances, support the banks in raising stable and diverse funding, especially in times of market stress. This is critical for the system given Australia's high reliance on wholesale funding.

**3. Impact on the competitiveness of Australian banks in certain markets**

NAB believes the levy should capture global international banks operating in Australia, in addition to the five major Australian banks. In wholesale markets in Australia and offshore, the main market participants are the five impacted banks and global international banks. Excluding these international banks will result in a clear disadvantage for the impacted Australian banks when competing against global competitors in these markets, who have the support of a global balance sheet.

Including foreign banks is also consistent with the operation of the bank levy in the UK.

**4. Impact of the levy on the functioning of financial markets**

Including wholesale banking activities such as repurchase agreements, collateral for derivatives and interbank cash flows in the levy liability calculation has the potential to reduce liquidity in those markets. These activities are essential to the efficient and effective functioning of the financial system in Australia (e.g. government bond issuance and the provision of liquidity across market participants). NAB acknowledges that the proposed legislation excludes exchange settlement accounts; however this does not materially reduce the risk of dysfunction in interbank cash markets.

In addition, and as noted above, the application of the levy to only five Australian banks could see important institutional banking activities such as custodian services, derivatives, trade finance, repurchase agreements and corporate lending migrate to global institutional competitors. As illustrated in the GFC, these banks have typically looked to rapidly exit the Australian market in times of stress which, if repeated, could have broader economic consequences.

**5. The need for a sunset clause in the legislation**

NAB urges the inclusion of a sunset clause in the legislation so the levy ceases when the budget returns to surplus. This would ensure the legislation reflects the policy's primary stated objective, being to assist in budget repair.

A sunset clause would also have the effect of requiring a review of the tax's design features, impact on financial markets and suitability for retention. The haste with which this legislation is being enacted means the risks of unintended consequences are significant and larger than usual. A sunset clause is one way of guarding against unintended consequences becoming permanently embedded in the operation of Australia's financial system. It would also provide an explanation and rationale for international investor concerns about the motivation for the imposition of the levy. NAB also believes a post implementation review should be conducted into levy within 18 months of it being effective to fully assess its impact.

### 6. A mechanism for waiving the levy

NAB believes the legislation should include an explicit reference that the levy can be waived or suspended in circumstances of financial stress. This could occur either if an impacted bank recorded a loss at their previous financial results announcement or payment of the levy would have caused a bank to record a loss in their prior reporting period. As the tax is based on liabilities, a bank which records a net loss would still be required to pay the levy. NAB believes that could pose a threat to the stability of the financial system if a bank suffering financial stress was still required to pay the levy.

### 7. Ministerial discretion

NAB notes the considerable discretion afforded to the Minister under the *Major Bank Levy Bill 2017* to make legislative determinations. This includes matters such as the exclusions from the total liabilities amount, and the amounts that are to be determined on an average basis rather than as at the quarter end. These features allow the executive to make considerable changes to the incidence of the levy without further consultation with the impacted ADIs. NAB recommends that there should be sufficient consultation with the industry and the Council of Financial Regulators, on any future ministerial determinations. This consultation is required to ensure there are no further unintended consequences from changes to the levy mechanism.

### Conclusion

As outlined in this submission, NAB continues to have serious concerns with the legislation. NAB looks forward to appearing before the Committee on Friday 16 June to further discuss these concerns and answer your questions.

Yours sincerely,

[redacted]

Gary Lennon

Group Chief Financial Officer

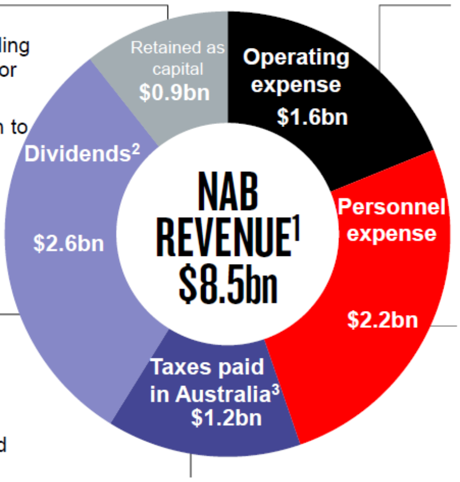
National Australia Bank

## Appendix A

# OUR ROLE IN THE BROADER COMMUNITY

## NAB REVENUE

- Supports all stakeholders and business partners
- NAB revenue is shown after paying interest to 4.5 million Australian and New Zealand retail and business deposit customers who have deposited over $380 billion with us




## BORROWERS

- Retained as capital to support new lending and further strengthen capital position for our existing loans
- NAB lends more than $2 billion a month to businesses and more than $5 billion a month to homeowners
- Total of over $300 billion in Home Lending and $200 billion in Business Lending

## SHAREHOLDERS (INCL. SUPER FUNDS)

- Approx. 569,000 shareholders
- Approx. 80% of NAB's profits distributed in dividends

## SUPPLIERS & COMMUNITY

- +1,700 supplier agreements
- Continuing to invest to deliver a great experience for our customers
- Carbon neutral since 2010, 75% of Australian key office buildings[4] are Green Star Rated

## OUR PEOPLE

- NAB employs ~34,000 people (NAB Group)
- Over 50% of our workforce directly engages with customers
- Over 35,000 volunteering hours contributed by employees

## GOVERNMENT

- Australia's fourth largest taxpayer
- Signatory to the Voluntary Tax Transparency Code

Figures based on NAB's 1H17 cash earnings
(1) Revenue shown net of $0.8bn of bad and doubtful debts
(2) Dividends declared
(3) Includes income tax, GST, FBT, payroll tax and other taxes borne by NAB that are attributable to the half year ended 31 March 2017
(4) 'Key office buildings' are all NAB commercial tenancies over 4,000m²

National Australia Bank

**Note: Figures for the six months to 31 March 2017**
**Source: NAB's 1H17 Financial Results, 4 May 2017**