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25 July 2024

Senator Jess Walsh
Chair, Senate Economics Legislation Committee
Parliament House Canberra ACT 2600

**RE: Treasury Laws Amendment (Build to Rent) Bill 2024 & Capital Works (Build to Rent Misuse Tax) Bill 2024**

Thank you for the opportunity to provide a submission to the Senate Economics Legislation Committee regarding the Treasury Laws Amendment (Build to Rent) Bill 2024 and the Capital Works (Build to Rent Misuse Tax) Bill 2024 (together, the Bills).

Mirvac is an ASX listed group which, as a leading residential owner, developer, and fund manager, has been at the forefront of the Build to Rent (BTR) sector in Australia for the past five years. Our pioneering efforts are evident through the establishment of operational BTR assets, including LIV Indigo in Sydney, one of the first operational BTR properties in Australia launched in September 2020. This project was the first in our BTR portfolio which now spans across Sydney, Melbourne, and Brisbane with more than 1,200 customers today and set to reach more than 4,000 in the next two years.

In June 2023, we established a BTR fund and raised $1.8b including key investors Clean Energy Fund Corporate (CEFC) and Japan's Mitsubishi Estate Asia, alongside Mirvac.

We recognise and appreciate the government's efforts to enable BTR in Australia. However, we believe the Bills in their current form will drive capital away from the housing sector in Australia. In addition, this will undo the work of State Governments who in recent years developed a suite of reforms to facilitate the roll out of BTR.

We know that BTR can significantly contribute to mixed tenure and affordable housing due to its scale, professional management, and long-term rental nature, especially when incentivised. For example, our LIV Anura project in Queensland, delivers 396 apartments, including 99 apartments at a 25% discount to market rent, supported by the Queensland government.

Mirvac is proud to have worked with the Property Council of Australia (PCA), Community Housing Industry Association, and National Shelter to develop a position on Build to Rent and affordable housing.

Our focus is on ensuring equity, whilst creating an efficient investment environment to attract institutional capital, and expanding the role BTR plays in the housing continuum across Australia.

We support the submission of the PCA and wish to highlight the following recommendations to address critical issues surrounding the application of taxation in the BTR sector:

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**Addressing the 15% MIT Withholding Tax Rate for Interposed Entities (Item 14):**

- **Current Issue:** Item 14 requires that the withholding MIT must directly own the active BTR development, excluding all existing BTR funds using head trust/sub-trust structures from the measure.
- **Implications:** This common commercial structure, where active BTR developments are held in sub-trusts wholly owned by a withholding MIT head trust, is vital for clear identification and management of BTR properties. In addition, investors in a withholding MIT head trust often invest through Australian entities, which do not require withholding as they are not payments to entities outside Australia. The current requirement excludes these common downstream and upstream structures, making the legislation ineffective.
- **Recommendation:** Remove the requirements introduced in Item 14 as they are unnecessary and render the measures ineffective as the 15% withholding tax rate is not applicable.

**Enabling Access for Existing Assets:**

- **Current Issue:** The Bills do not extend concessions to existing projects where construction commenced before 9 May 2023, based on the belief that it would not increase housing supply.
- **Implications:** Entities with established platforms and pre-existing stock are well-positioned to expedite housing supply and meet national housing objectives. In addition, existing BTR properties meeting the 10% affordable housing requirement should be incentivised to offer additional affordable housing.
- **Potential Benefits:** Access to the 15% rate could provide an additional ~1200 affordable dwellings and thousands of residential dwellings to the housing market sooner.
- **Recommendation:** Allow existing assets to access the 15% rate to boost market confidence, attract additional capital investment, and provide immediate relief to the unmet demand for affordable housing.

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**Conclusion**

The BTR sector has almost stalled over the last 12 months, with limited additional capital entering the sector post-Mirvac's successful raise. While market delivery challenges like construction costs contribute, the main factor has been investors waiting for the implementation of MIT legislation with effect from 1 July 2024, since its announcement on 9 May 2023. To offer more housing choices and affordable options, we need to attract institutional investment in BTR housing from both domestic and foreign sources. More supply means downward pressure on renting and buying costs. However, the BTR sector requires certainty and equity in investment settings and planning timeframes to attract appropriate capital.

Build-to-Rent (BTR) housing can significantly alleviate the housing crisis and deliver 105,000 homes. The Community Housing Industry Association (CHIA), National Shelter, and the Property Council of Australia all emphasize the importance of extending the 10% MIT withholding tax rate to existing BTR projects to unlock over 1,200 affordable tenancies. BTR, though new in Australia, is a proven housing model in countries like the UK, Canada, and the US, providing secure tenure for renters in high-quality accommodation. All sides of politics agree that Australia is in a housing crisis, and it is time to support effective solutions like BTR.

Sincerely,

[redacted]

Fund Manager - BTR Sector Lead, Mirvac

Angela Buckley