27 August 1999

Mr Paul McMahon
Committee Secretary
House of Representatives Standing Committee on Employment, Education and Workplace Relations
R1, 116, Parliament House
CANBERRA ACT 2600

Dear Mr McMahon

**Re: Inquiry into Employee Share Ownership in Australia**

Thank you for the opportunity to present to the Committee on Tuesday 13 July 1999.

In addition to taking this opportunity to make a second submission for the Committee's consideration, we would also like to respond to the matters taken on notice during our presentation.

As discussed during our presentation, much of Lend Lease's history demonstrates the partnering of capital and labour. Indeed, we believe that employee share ownership is a manifestation of that partnering. We acknowledge the progressive thinking of successive governments in encouraging employee share ownership via the income tax system, especially Division 13A. There is one variation on that theme that we submit to the Committee for consideration.

**Variation**

Presently, Division 13A subjects employees to income tax on the discount on shares acquired under an employee share scheme. The employee (a "scheme shareholder") is required to pay tax in the year in which the shares are freed of their disposal restrictions ("the cessation time"), which is usually the earlier of when the employment terminates and 10 years. Tax is calculated with reference to the market value of the shares at the cessation time, rather than at the time of acquisition. Subsequently, capital gains tax (CGT) applies, on disposal of the shares, to capital gains made after the cessation time.

Under the existing regime, the employee is subjected to income tax at the cessation time, irrespective of whether the shares are disposed of at that time, or considerably later.

The variation that we recommend is that the discount to be taxed at the cessation time (being, broadly, the earlier of 10 years after acquisition and cessation of employment) is the discount existing at the time the benefit was originally provided by the employer. Subsequent increases in value would be dealt with under the capital gains tax regime on ultimate disposal.

An example best illustrates how our variation would work.

***Under Division 13A...***

An employee is awarded shares to the value of $100 under an employee share scheme. After 10 years ("year 10"), the shares are worth $150 and that value is currently included in the employee's assessable income. Supposing the employee disposed of the shares a further five years later ("year 15") for $175, capital gains tax would apply to the indexation-adjusted value of the $25 gain (say $20). In other words, the employee would pay income tax on $150 in year 10 and capital gains tax on $20 in year 15 at his/her relevant marginal tax rate.

***Under our variation...***

Rather than being required to pay tax on $150 at year 10, the employee would be taxable on $100 at year 10. This corresponds to the benefit that was provided by the employer. The $100 would become the employee's cost base to be inflation-adjusted until ultimate disposal 5 years later for $175.

In our view, this variation most accurately imposes income tax on the benefit provided by the employer and taxes growth on that benefit under the capital gains tax regime.

**<u>Matters taken on notice</u>**

During our presentation, there were three items that were taken on notice. These items and our responses follow:

***1. What is the extent of union coverage within Lend Lease (Australia)?***

There are two main workplace agreements in place for the Lend Lease Group in Australia. These are:

- MLC Enterprise Development Agreement (EDA) with the FSU

- Civil & Civic/Lend Lease Interiors (now Lend Lease Projects) Joint Development Agreement (JDA) with the CFMEU.

Both the EDA and JDA are registered agreements with the Australian Industrial Relations Commission. The MLC EDA covers approximately 1,300 employees and the Civil & Civic/Lend Lease Interiors JDA covers approximately 500 employees.

***2. How many graduates are employed annually by Lend Lease (Australia)?***

Lend Lease employs approximately 25 graduates per annum.

***3. What is the extent of sharing of ESAP administration costs between Lend Lease (as the employer) and ESAP (as a separate trust)?***

ESAP has been in existence for some 11 years. At this stage of maturity, ESAP (as a separate trust) funds all the trust's administration costs.

As indicated at the end of our presentation, we were delighted to have had the opportunity to make a contribution to the Committee's proceedings and again make the offer of our assistance as may be required by the Committee.

Yours sincerely

W A H WEBSTER
Executive Director
Lend Lease Corporation Limited