

Submission to the Commonwealth Commission of Audit December 2013

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Introduction

The Property Council welcomes the opportunity to provide input to the Commonwealth Commission of Audit.

Acknowledging the current state of Commonwealth finances, we commend the work of this audit as a way to reduce unnecessary expenditure and look at new and innovative ways to fund government priorities.

At the same time, we encourage the Commission to identify and safeguard programs which underpin improvements in economic growth and productivity.

This submission details the Property Council's view on where savings can be made and which Government programs play a role in our industry's ongoing competitiveness.

About the Property Council

The Property Council represents the \$670 billion property investment industry in Australia.

The Property Council's 2,000 member firms and 55,000 active industry professionals span the entire spectrum of the property and construction industry.

Our members operate across all property asset classes - including office, shopping centres, residential development, industrial, tourism, leisure, aged care, retirement villages and infrastructure.

The property industry by numbers

- \$34 billion p.a. in property-specific taxes;
- \$340 billion in investment grade assets under management;
- 1.3 million jobs (12.8 percent of the total workforce);
- \$148 billion in direct economic activity;
- 11.5 percent of Australia's GDP.

Executive Summary

- The Property Council supports the Commission of Audit's objective of putting the Federal Budget on a more sustainable footing.
- Productivity and economic growth remain sluggish when compared to long-term trends. Decisions to reduce spending on programs which underpin growth and productivity should be considered in this context.
- There is significant scope for increased productivity by creating more functional relationships between the Commonwealth and the states and territories. Products of a healthier federation would include:
 - a more efficient tax system;
 - streamlined environmental assessments and approvals; and,
 - better coordination of social housing and care for senior Australians.
- The Property Council strongly supports a more strategic approach to meeting the challenge of an ageing population. The private sector can play a greater role in meeting the needs of senior Australians.
- Similarly, by establishing an Urban Infrastructure Fund the Government can foster a more attractive asset class - generating more private investment to remedy the infrastructure backlog.
- A source of quality housing supply data needs to be re-established to inform investment decisions and avoid market fluctuations.
- Australia's economic resilience to terrorism should not be traded off to plug budget gaps. Funds transferred from the Australian Reinsurance Pool Corporation should be returned, and future transfers should be cancelled.

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1.1 Scope of Government

1.1.1 Improve the operation of COAG

Why is this important?

Australia's federal governance process should aim to optimise the nation's public policy framework and regulatory instruments to improve national competitiveness, liveability and sustainability.

The Issue

COAG is Australia's board of directors.

While the COAG Reform Council has done much work to help COAG operate more effectively, there is no agreed blueprint for transforming efficiency and policy frameworks and regulation as a national competitive advantage.

The Solution

The COAG Reform Council should develop a blueprint for modernising, integrating and optimising Australia's federal public policy framework.

Its recommendations should form the basis of an intergovernmental agreement for a step-change improvement in policy-making frameworks.

This should include long-term performance targets, based on agreed measures of progress that are regularly reported upon.

Scope of Government (continued...)

1.1.2 Streamline environmental reporting

Why is this important?

Property owners and occupants are subject to several compulsory reporting requirements that duplicate (and sometimes contradict) each other.

The Issue

A variety of reporting regimes measure the same information in markedly different ways, including:

- the National Greenhouse and Energy Reporting System (NGERS);
- the Energy Efficiency Opportunities Act (EEO); and
- the Commercial Building Disclosure (CBD) scheme.

These regimes are operated by different government agencies and apply varying reporting methodologies.

Efforts so far to streamline NGERS and EEO have been unsuccessful and duplication is ongoing.

This regulatory burden extends to homes – there is still no common approach to measuring the eco performance of houses.

The Solution

- Limit commercial property industry reporting obligations to the CBD Scheme.
- Scrap the Tenancy Lighting Tool within the CBD Scheme.
- Commit to develop a nationally harmonised residential tool to streamline environmental reporting.

1.1.3 Maintain resourcing for EPBC administration

Why is this important?

The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) has significant implications for the construction sector in general, and the residential development industry in particular.

The Issue

The Property Council has welcomed the pace of reform by the Federal Government - aimed at streamlining assessment and approval processes with state and territory governments.

While a 'one stop shop' model represents a significant step forward, there are still issues identified by the Hawke Review which have not been progressed.

The Property Council is also keen to ensure that appropriate mechanisms for transparency and evaluation are included under the approval bilaterals model.

The Solution

Provide a clear timetable for the transition from memorandums of understanding with states and territories, through to active approvals bilaterals.

Implement the full suite of legislative and administrative reforms to the EPBC Act identified by the Hawke Review and previously slated for implementation.

1.1.4 Rethink the extension of unfair contract provisions

Why is this important?

The Coalition's proposal to extend unfair contract provisions to business-to-business contracts exceeds the status quo in any western country and will add unnecessary red tape and uncertainty.

The Issue

The Federal Government's pledge to extend Part 2-3 of the *Competition and Consumer Act* to cover business-to-business contracts will exceed what is currently required by comparable governments overseas.

For the property industry, it will also duplicate existing legislation relating to leases at a state and territory level. This is contrary to the government's red tape reduction agenda.

The result is the application of consumer protection laws to businesses which aren't in need of protection.

The Solution

Shelve plans to extend Part 2-3 of the *Competition and Consumer Act*.

At a minimum, consult with industry on an appropriate definition for 'small business' and limit the extension to contracts with small businesses.

Any proposal should be subject to a rigorous regulatory impact assessment.

1.2 Efficiency and effectiveness of government expenditure

1.2.1 A National Housing Partnership Agreement

Why is this important?

Housing is vital to delivering a more sustainable Australia and bolstering the liveability of our cities and communities.

The Issue

Housing issues link to several policy priorities, including infrastructure, cities, planning, retirement living and innovative public financing.

Solutions

Mainstream Housing Solutions

- negotiate a COAG-agreed National Housing Partnership (NHP) which includes:
 - housing supply targets, which should be reflected in all metro planning strategies; and,
 - an incentive and penalty system tied to achieving these targets.

Social Housing Solutions

- revitalise the National Affordable Housing Agreement (NAHA), including the introduction of a housing supply growth fund;
- commit to permanent National Rental Affordability Scheme (NRAS);
- identify Commonwealth land and existing assets that can be employed to deliver housing; and,
- incentivise the transfer government housing assets to the community sector.

1.2.2 An improved downsizing program for seniors

Why is this important?

Seniors are currently penalised for downsizing to a more age-appropriate residence. This constrains housing supply and increases government healthcare costs.

The Issue

The penalties associated with downsizing from a family home to a retirement village are preventing the efficient provision of health and aged care services and generate negative social and fiscal outcomes.

The Solution

The current \$112.4 million downsizing trial program, set to commence July 2014, has significant scope for improvement. To fully realise the benefits of the scheme the Government should:

- expand the trial to all Australians aged 75 and over - i.e. an age based test rather than length of home ownership test;
- limit eligibility to those Australians who are eligible for the full rate age pension; and,
- allow Australians who take advantage of this initiative to use the capital they have freed up for health and age-related service costs (e.g up to \$25 000 per year on health and wellbeing costs such as private health insurance, community care, meals-on-wheels, cleaning).

1.3 State of Commonwealth Finances

1.3.1 Maximise private investment in caring for senior Australians

Why is this important?

Australian Governments, mostly the Commonwealth, spent \$12.9 billion in F2013 on residential aged care and community care packages.

Significant savings can be made by encouraging growth in the privately funded retirement village sector, which houses and cares for both age pensioners and self-funded retirees using a privately financed co-contribution model

The Issue

Retirement villages provide a highly cost-efficient hub for delivery of in-home care and health services, alleviate housing supply pressures for younger families, and reduce hospital and aged care costs. They are an evolved financial model for happy, sustainable 'ageing in place'.

Only 5% of the over 65 population currently live in a retirement village. Without a clear plan for the retirement village industry the Federal Budget will be lumped with unnecessary aged care expenses for years to come, and more senior Australians will have no option but to move to residential aged care facilities.

The Solution

The Federal Government should:

- establish a national seniors strategy, including solutions for lifting the supply of age-appropriate housing at prices that all retirees can afford;
- create a retirement village industry strategy to increase the number of independent living units built, with a particular focus on improving the tax treatment of the asset class;

- amend age pension income test rules to partially exempt the cash balances between the sale of a family home and purchase of an independent living unit; and,
- make retirement living a standing item on the agenda of meetings of Federal, State and Territory Aged Care Ministers.

1.3.2 Unlocking Commonwealth land

Why is this important?

The Commonwealth government can play a leadership role and act as an exemplar of best policy practice in its efforts to address housing affordability.

The Issue

The Commonwealth should undertake and publically release an audit of its extensive land holdings. This should include an assessment of lands suited to housing development resulting in a transfer of these land assets to the private sector for development of new housing.

Successive Governments have committed to this policy. However, the net result has been a series of unpublished audits and a piecemeal approach to land site sales.

The Coalition should commit to undertake a Commonwealth land audit as part of its efforts to combat the national housing supply gap.

The Solution

- undertake a complete audit of Commonwealth land to identify potential housing development sites;
- publish the full land audit findings; and,
- develop a tendering process for all land holdings deemed suitable for development.

State of Commonwealth Finances (continued...)

1.3.3 Modernise the Australian tax system

Why is this important?

A competitive and stable tax environment is essential to attract global capital from pension and sovereign wealth funds, and encourage domestic investment in property.

The modernisation of international, national, state/territory and local government taxes will boost Australia's competitiveness.

The Issue

The Henry Tax Review formula is simple: trade in dozens of outmoded, inefficient taxes for those that are broad-based, low rate and efficient.

To succeed, this process requires an ironclad, up-front, long-term commitment from all states and territories.

As the largest collector of taxation revenue and the central manager of the nation's public finances, the Australian Government must facilitate the modernisation of the federation's tax framework.

The Solution

- COAG should commit to an intergovernmental agreement (IGA) that progressively replaces inefficient state and territory taxes with broad-based efficient taxes that meet Australia's strategic public finance goals.
- Establish a Tax Modernisation Commission, with an independent chairperson from the business community, to oversee the IGA and develop a 10 year state tax blueprint.
- Design an efficient tax model that captures economic rent.
- Reduce the MIT withholding tax to 10%.
- Modernise Australia's trust taxation regime to support investment across all forms of property.
- Streamline and improve the operation of the GST by implementing the Property Council's 7 point program.

2.1 Commonwealth Infrastructure

2.1.1 Adopt brighter mechanisms to finance infrastructure

Why is this important?

Without smarter ways to tap into Australia's \$1.6 trillion in superannuation savings, fixing the infrastructure backlog could overwhelm the Federal Budget.

The Issue

Estimates put Australia's infrastructure backlog at between \$450 billion and \$770 billion.

Chronic under-investment has some groups tipping that the cost of urban congestion alone will reach \$20 billion per annum by 2020.

The Federal Government has an important role to play in coordinating and delivering infrastructure to address this challenge.

Multiple options exist for tapping into private capital, such as tax increment financing, public-private partnership models and earn back.

The Property Council is currently piloting the UK 'City Deals' approach and will be providing further detail on this topic to the Productivity Commission's Public Infrastructure Inquiry.

The Solution

- Establish and staff the Funding and Finance Advisory Unit within Infrastructure Australia.
- Institute a Government Working Group led by Infrastructure Australia with representatives from Treasury and the Australian Office of Financial Management.
- Review the outcomes of the Productivity Commission's Public Infrastructure Inquiry and commit to long-term funding and financing mechanisms to bolster market confidence.

2.2 Public sector performance and accountability

2.2.1 Re-establish reporting on housing supply

Why is this important?

Winding up the National Housing Supply Council has left Australian governments flying blind on housing supply. An equivalent resource is needed to provide insight on housing affordability and undersupply problems.

The Issue

The National Housing Supply Council's *State of Supply* report has played a crucial role in directing investment towards the building and construction industry.

The issues of housing affordability and supply are too important to be left to the states alone.

The Federal Government needs to continue to play a leading role in this policy area. To do this, a housing supply function should be created within the Department of Human Services to monitor supply trends.

The Solution

- Establish a Government-industry working group to:
 - audit information requirements in relation to housing supply; and,
 - provide advice on governance and delivery frameworks for periodic data collection, analysis and distribution.
- Confirm an allocation of funding to reinstate a resource for housing supply data.

2.2.2 Australian Reinsurance Pool Corporation

Why is this important?

The Australian Reinsurance Pool Corporation (ARPC) is a crucial plank of Australia's resilience to terrorism. The decision to strip funds contributed by industry to plug holes in the federal budget weakens our defence and puts the budget bottom line at risk.

The Issue

Following the events of 11 September 2001, global reinsurers stopped providing cover for terrorism-related risk.

The ARPC addresses this fundamental market failure by collecting a levy from insurers (passed on to industry) and offering government-backed reinsurance for terrorist incidents.

The 2013-14 Federal Budget included a \$100 million 'dividend' from the ARPC to the Federal Government, with further payments slated over the forward estimates.

This raid of industry funds has caused the ARPC to cancel its retrocession program, which currently provides an additional \$3 billion worth of coverage.

Unless the payments are cancelled this will bring the Government \$3 billion closer to shouldering the cost of a major terrorist attack.

The Solution

- Instruct Treasury to return any ARPC funds already appropriated as a 'dividend' by the previous government.
- Commit to quarantine ARPC funding from future budget raids.

ANNEXURE 'A': The Property Council's 'Red Tape Reduction List'

Topic	Problem	Solution	Advantages
Environment			
CBD Program – lighting tool	It achieves nothing – the costs outweigh the benefits.	Simplify the <i>Building Energy Efficiency Disclosure Act</i> to only require disclosure of a base building's NABERS rating.	Building owners can save money on compliance costs and free up sustainability staff to focus on implementing proactive measures.
CBD Program – unsolicited offers	Due to the operation of mandatory disclosure rules, building owners cannot talk to potential buyers/tenants without first obtaining a Building Energy Efficiency Certificate. This creates a severe disadvantage for owners who receive unsolicited offers.	Implement a grace period for owners to obtain and disclose a rating following an unsolicited offer for sale or lease.	By removing regulatory barriers to unsolicited transactions, the property market will operate more efficiently and effectively.
EPBC Act – single assessment and approval regime	It adds an unnecessary layer of protection by duplicating assessment processes carried out by state and territory authorities.	Implement bilateral agreements which delegate approval powers under the EPBC Act to the states and territories.	Increases investment by removing burdensome approval processes while maintaining environmental standards – particularly in the retirement living and residential development sectors. This will improve housing affordability.
EPBC Act – ongoing reporting	Federal approvals under the EPBC Act often require ongoing reporting to demonstrate	Direct the Department of Sustainability, Environment, Water, Population and Communities to not require ongoing	Reduced compliance burden during the construction phase of property projects, enabling sustainability staff

Topic	Problem	Solution	Advantages
	compliance. This creates an ongoing burden without improving environmental outcomes.	reporting under conditions of approval.	to focus on proactive initiatives.
Energy Efficiency Opportunities Act	The EEO Program largely duplicates the aims and requirements of NGERs, CBD and widely adopted industry programs.	Introduce a specific exemption for property companies – similar to that which exists for the electricity and gas sectors.	Significantly reduce the compliance burden on affected businesses which will enable renewed focus on sustainability outcomes.
National Greenhouse Emissions Reporting Scheme - reporting	The NGERs program was originally introduced to underpin an emissions trading scheme. It is now creating an unnecessary compliance burden on the property sector, which is already subject to mandatory disclosure of NABERS ratings.	Streamline reporting with the EEO Scheme so that companies which report under both will only report once.	Reduced reporting and compliance burden on companies.
National Greenhouse Emissions Reporting Scheme – incidental emissions	Reporting of incidental emissions is complicated, ill-defined and does not make a substantive contribution to our understanding of overall emissions.	Remove the requirement to report incidental emissions from the NGERs Regulation 2008.	A significant reduction in the administrative burden placed on businesses while maintaining the overall integrity of the NGERs framework.

Topic	Problem	Solution	Advantages
Industry regulation			
National Occupational Licencing	Inconsistent licencing regimes across the country prevent the mobility of labour and unnecessarily regulate large property companies.	Fast-track national licencing reform through COAG and back a licencing exemption for large corporations and related entities.	<p>Real estate companies can more easily move talent around the country.</p> <p>Property companies can save hundreds of thousands of dollars in licencing which is designed for consumers.</p>
Barriers to co-/tri-generation	Current rules around electricity generation and connection represent a barrier to adoption of energy efficient technologies.	Direct the Australian Energy Market Commission to work with the Property Council and other stakeholders to implement solutions.	Adoption of co-/tri-generation technology will reduce energy costs and carbon emissions for building owners and tenants.
Asbestos Management Plans	The <i>Code of Practice for the Management and Control of Asbestos in the Workplace</i> requires all buildings constructed before 2004 to have an asbestos management plan in place, despite a very small proportion of pre-2004 building stock containing asbestos.	Instruct Safe Work Australia to review the Code of Practice with a specific focus on the requirements for asbestos management plans.	Eliminate the burden of developing plans for workplaces which are not affected by asbestos.
Consumer Credit	Operators of retirement living	Amend the <i>National Consumer Credit</i>	Better access to flexible finance for

Topic	Problem	Solution	Advantages
Regulation	assets who assist residents by deferring general service charges cannot charge interest without obtain an Australian Credit Licence. This is impractical and leads to less flexibility for residents.	<i>Protection Regulations 2010</i> to exempt operators of retirement living assets from requiring an Australian Credit Licence.	seniors in retirement living communities.
Planning			
Major Development Plans for Federal Airports	Processing approvals for major development plans under the <i>Airports Act</i> typically takes 9 months. This is out of step with other approval processes and a disincentive to investment.	Introduce statutory timeframes to Division 4 of the <i>Airports Act</i> and increase resources available to assess applications.	Increased investment in federally regulated airports with corresponding benefits to local economies, tourism and movement of goods and services.
Taxation			
GST Grouping – duplicate notification	Two forms need to be completed every time an entity joins a GST group. The ATO notification form and the written agreement have identical content.	Treat the ATO notification form as a written agreement for the purposes of GST grouping (s48-5(1)(b) of the GST Act).	Halve the compliance burden for all affected taxpayers
Construction industry reporting	Building and construction companies must provide to the ATO an annual taxable payment form for each	Allow information to be submitted to the ATO in an excel spreadsheet.	Eliminates hours of manual data entry time for business and the ATO.

Topic	Problem	Solution	Advantages
	contractor. This requires the completion of manual forms for hundreds or thousands of contractors for large building companies.		
Capital markets			
Significant Investment Visa (SIV)	Current SIV rules require separate approvals from the Foreign Investment Review Board (FIRB) and the Government. The process is an unnecessary double up and a waste of time.	Deem FIRB approval once SIV status is confirmed.	Accelerates approval time and reduces compliance costs.
Foreign Investment Review Board	FIRB is forced to review all commercial investments even when there is no national interest element.	Deem approval for commercial investment applications that have no "material interest" issues.	Speeds up foreign investment approvals for non-controversial applications.
Shorter PDS regime for all retail financial products	Direct property funds are excluded from the shorter PDS regime and instead have to disclose under ASIC's RG46.	Allow shorter PDSs for direct property funds and more limited RG46 disclosure in PDSs.	Cut compliance costs and encourages investment.
Update and simplify withdrawal of offer	Current provisions are unwieldy and difficult to manage which	Refine rules to simplify information that must be provided and allow for electronic	Improves fund liquidity for investors.

Topic	Problem	Solution	Advantages
provisions of corporations act	limits flexibility by managers resulting in less liquidity for investors than would otherwise be possible.	communication of information.	
ASX Corporate Governance Guidelines	The Guidelines impose significant systems compliance and reporting obligations on companies.	Streamline the Guidelines by undertaking a review.	Reduces compliance burden and streamline reporting requirements for company Annual Reports.
Borrowing restrictions on self-managed superfunds	<p>SMSFs have to set up separate trusts for each asset they buy using borrowed funds.</p> <p>The ATO's view is that this test should be based on legal title.</p> <p>This produces impractical results where the legal title does not reflect the intended or actual use of the assets.</p> <p>For example, under the ATO's view, a home unit with a car space on a separate title would require two separate trusts, two separate loans and two separate contracts for sale.</p>	Refine rules to have regard to both legal title <i>and</i> actual or intended use of the property being acquired by the SMSF.	Cuts compliance costs and encourages investment.

OTHER RED TAPE MEASURES (COAG-led)

Topic	Problem	Solution	Advantages
Adopt consistent state taxes methodologies	Creates inefficiencies and significant additional execution cost and risk. Limits the level of transactional activity which would otherwise occur.	Seek a COAG agreement to harmonise state taxes methodologies across all states and territories, but allow variation in rates that apply.	Reduces execution costs and encourages transactions/investment.
Harmonisation of emergency levy frameworks	Emergency management levies are currently applied in markedly different ways between states and territories (insurance premiums, council rates etc.).	Seek a COAG agreement to harmonise the method of levy collection across states and territories, but allow variation in rates that apply.	Minimises compliance costs and regulatory risk while enabling competitive rate-setting.



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