

30 June 2017

Mr Michael Andrew AO
Chair
Black Economy Taskforce
The Treasury
Level 6, 120 Collins Street
MELBOURNE VIC 3000

By email: blackedeconomy@treasury.gov.au

Dear Mr Andrew

Black Economy Taskforce – Interim Report

The Property Council welcomes the Interim Report of the Black Economy Taskforce and commends the Taskforce for undertaking consultation with the property sector.

The Property Council is the peak body for owners and investors in Australia's \$670 billion property investment industry. We represent, owners, fund managers, superannuation trusts developers and investors across all four quadrants of property investments: debt, equity, public and private.

The Property Council supports the objectives of the Taskforce, particularly in seeking to reinforce the rule of law and protecting competitive neutrality in the property sector and the wider economy. However, the introduction of any new measures should be targeted towards those participants engaged in black economy activity rather than a sector-wide or 'top-down' approach that places onerous and costly compliance requirements on the rest of the industry that is already meeting its tax obligations.

We note that in the Interim Report it was indicated that the Final Report might include some recommendations specific to certain sectors, including the property sector. By its nature, the black economy is invariably based on cash transactions and such risks are considerably reduced in circumstances where cash payments are absent, which is the case for the main participants in the property industry and for the professional services that support the property and construction sector.

We accept that the risk of cash transactions is potentially higher at the subcontractor level of the supply chain in the construction sector. As suggested in the Interim Report, we believe that a combination of incentives (and sanctions) to encourage small businesses to adopt a non-cash business model will be important in addressing this issue.

The Property Council would support the recommendation in the Interim Report to strengthen the ABN system, particularly if a system could be developed that would enable real-time online confirmation of ABN validity. We would also support lowering the GST threshold below the \$75,000 annual turnover and as an option this could be applied to specific sectors based on risk assessment. By way of example, all taxi operators are required to be registered for GST, regardless of turnover.

The Property Council notes the proposition canvassed by the Taskforce with respect to consumer-focussed sanctions, specifically the loss of consumer protections, warranties and legal protections for people who make cash payments without receiving a valid receipt.

We suggest that issues which may need to be considered include:

- **Retrospectivity** – while accepting that taxpayers should be compliant with tax laws, a new requirement to retain valid receipts to ensure legal protections should be prospective rather than retrospective.
- **De minimis rules** – circumstances in which a tax invoice could not be produced for an incidental fraction of work performed should not taint the entire warranty and all legal rights.
- **Interaction with other warranties** – building and construction warranties often vary between States, while tax record-keeping requirements are five years after the later of when they are prepared, obtained or the transaction completed. A mismatch could mean that a warranty could be 'black' for an initial period and might then become 'white' after the ATO record-keeping period expires. We believe it would be unreasonable for the property sector to have longer tax record-keeping requirements to match building and construction warranties.
- **Change of ownership provisions** – will contracts of sale require new clauses attesting to tax compliance? How will contracts of sale proceed if there is any uncertainty about past tax compliance?

We would be happy to meet to discuss these issues with you further, and look forward to the Final Report of the Taskforce.

Please contact Ian Farrow (03 9664 4229) or me (02 9033 1929) if you have any queries.

Yours sincerely



Belinda Ngo

Executive Director, International & Capital Markets