

26 September 2024

Senator Andrew Bragg
Chair, Senate Economics References Committee
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

By email; economics.sen@aph.gov.au

Dear Chair

Financial regulatory framework and home ownership

1. This submission concerning the Senate Economics References Committee's inquiry into the financial regulatory framework and home ownership (the **Inquiry**) is made by the Financial Services Committee of the Business Law Section of the Law Council of Australia (the **Committee**).

Background

2. The Inquiry's Terms of Reference are:

1. *Australian Prudential Regulation Authority prudential standards and Corporations Act 2001 provisions for lending;*
2. *the nature and type of debt and equity arrangements being used to underpin housing development;*
3. *the appropriate involvement (if any) of corporate and institutional funds in the provision of housing;*
4. *the effectiveness of mechanisms to monitor investment in the residential property market;*
5. *the tax treatment of residential property and impacts on demand and house prices;*
6. *the adequacy of metrics available to policymakers for monitoring the ratio of new housing supply relative to population growth;*
7. *examples of effective priority treatment for aspiring Australian homeowners that do not compromise financial stability; and*
8. *any related matters.*

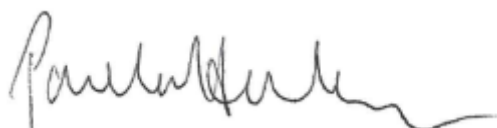
Submission of the Committee

3. The Committee wishes to briefly comment only with respect to the first of the Inquiry's Terms of Reference, as the balance of the Terms of Reference are not legal matters.
4. The Committee firstly notes that the *Corporations Act 2001* (Cth) does not regulate lending, and has assumed that the Inquiry is in fact concerned with the responsible lending provisions under the *National Consumer Credit Protection Act 2009* (Cth).
5. The Committee notes that the responsible lending laws are intended to prevent consumers from entering into loan contracts that are potentially harmful or unaffordable for them. Credit providers covered by responsible lending laws must undertake certain prescribed inquiries into individuals' financial circumstances, and can only lend to a consumer if they are satisfied that the relevant credit contract will not be unsuitable for the consumer.
6. The Committee believes that, overall, the responsible lending laws are operating effectively.
7. The Committee also notes that the Australian Prudential Regulatory Authority (**APRA**) prudential standards are intended to protect the stability of the financial system by limiting financial institutions' risk exposure (including their exposure to the risk of borrower defaults).
8. The Committee acknowledges that, due to lenders' adherence to responsible lending laws and APRA prudential standards, some potential borrowers seeking to purchase residential property may be unable to obtain finance through the traditional banking system.
9. While this is one factor that can have a limiting impact upon individuals' access to home ownership, the Committee is of the view that, overall, economic forces of supply and demand (in particular, inadequate supply of housing) have had a greater impact upon housing affordability than the operation of the financial regulatory framework.

Conclusion and further contact

10. The Committee would be pleased to discuss any aspect of this submission.
11. Please contact the Co-Chair of the Committee Pip Bell
[REDACTED] if you would like to do so.

Yours sincerely



Professor Pamela Hanrahan
Chair
Business Law Section