

22 April 2024

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Susan Bultitude
Director
Corporate Tax Policy Unit
Corporate and International Tax Division
Treasury

By email: btr@treasury.gov.au

Dear Susan,

Submission to exposure draft legislation for build-to-rent tax concessions

The City welcomes the opportunity to provide feedback on the proposed tax incentives for build to rent (BTR) housing.

The City is broadly supportive of the delivery of tax incentives to encourage investment in and construction of BTR. Efforts to increase housing diversity and the availability of rental accommodation are beneficial.

The City strongly supports incentives that ensure a component of the BTR development is genuine 'affordable housing'.

BTR housing is premium market housing due to the amenities it offers and must not be assumed to be 'affordable housing'. All residential development in the City of Sydney, including BTR, must contribute three per cent of floor space towards affordable housing. Government intervention is necessary to ensure any housing is affordable.

The City is currently introducing new incentives for BTR in Central Sydney, in the form of bonus floor space. The City's planning amendments follow recent changes to the NSW State Environmental Planning Policy (Housing) 2021 (Housing SEPP) so that build-to-rent development can never be subdivided into separate lots within Central Sydney (SP5 zone).

This requirement is a key consideration for Central Sydney. It aligns with key strategic directions to maintain and strengthen Central Sydney's status as a globally competitive city able to attract business investment. The City's current strategy on prioritising employment capacity, particularly in the commercial core, is to ensure there is employment floor space available to accommodate projected jobs growth and maintain Sydney's competitive advantage into the future. It will also contribute to the vibrancy of the Sydney central business district as it is more likely to be occupied than investor apartments.

The City is also facing extreme housing challenges with very low levels of availability and affordability which are having an acute impact on lower income households. All levels of Government need to take action on this important issue.

Feedback on section 43-152 of the draft bill

Minimum proportion of affordable dwellings

The City strongly supports a minimum proportion of dwellings to be made available as affordable tenancies. The proposed ten per cent minimum in the draft exposure bill is acceptable, but not ambitious, given the extent of the housing affordability problem nationally and locally.

The City urges consideration of an increase in the rate for the capital works tax deduction and a reduction in the final withholding tax rate on eligible fund payments from managed investment trust investments for developments that exceed the minimum requirement for affordable housing. If set in consultation with potential proponents, it could incentivise an increase in the supply of affordable housing.

The City of Sydney has a mature and effective affordable housing program enacted through its planning framework. It has delivered about 1,429 affordable dwellings owned and operated by community housing providers and is expected to yield about 1,950 dwellings in total. The Commonwealth Government should further consult with the City of Sydney to identify any opportunities to align the delivery of affordable housing in a BTR project with the City of Sydney's affordable housing program.

Length of time dwellings must be held in single ownership

The Housing SEPP identifies key areas like Central Sydney and other commercial core areas where BTR must be held in single ownership in perpetuity. The City strongly supports this requirement as single ownership enables sites to adapt and renew to market conditions, protecting long term business and economic growth opportunities in these precincts.

In other areas, the proposed 15 year requirement for single ownership is consistent with the requirement in the Housing SEPP which states that subdivision is restricted for 15 years from the date of the occupation certificate. The City appreciates this may be appropriate for some locations.

In response to the impact on tenants, BTR that includes affordable housing, should include a requirement to conduct exit planning with impacted households if owners sell or repurpose developments after 15 years. The bill should include a requirement for owners to assist impacted households to find the most appropriate housing option based on their housing needs.

Eligibility

The proposed use of income limits set as a percentage of annualised average weekly earnings on a national basis for three household types is not preferred and may unfairly limit access to the affordable housing delivered using this eligibility criteria. There are four main issues with the approach:

1) Lack of geographic sensitivity

It is preferable to set income eligibility limits with some geographic variation to allow for the significant variation in income in different parts of the country.

This is particularly relevant in the City of Sydney. In December 2023, Sydney recorded the highest median weekly earnings of all the capital cities¹. Lower income earners, earning more than 120 -140 per cent of the national average weekly earnings, face housing affordability challenges in the City of Sydney and other high cost locations. Under the proposed approach, these households would be deemed ineligible for affordable housing in the City of Sydney.

2) Use of average weekly earnings instead of median weekly earnings.

It is acknowledged average earnings are well understood and commonly used; however, median earnings are more representatives of the “average” employee’s earnings as earnings data has a positively skewed distribution².

Data from the Australian Bureau of Statistics in 2021 showing the distribution of weekly total cash earnings, identifies the median is \$1,209 per week while the mean is \$1,394 per week. While a difference of \$185 is not vast, the relative value of that amount for a low income household is significant.

The most robust measure available should be used when rationing a scarce form of housing assistance.

3) Limited range of household types

The proposed list of three household types (single adult, couple no dependant and family one or more adults with one or more dependants) is not inclusive and will disadvantage certain households. Many of whom are concentrated in lower income households. This includes single parent families, larger families with two or more children and multi person households. Particularly disadvantaged cohorts include Aboriginal households, those from culturally and linguistically diverse backgrounds and younger people in shared housing.

Other limitations include the lack of capacity to increase the income limit based on additional household members.

4) No increase in income limits for ongoing eligibility

The income eligibility limit is the same for initial and ongoing eligibility which limits the capacity of households to retain housing if they experience small increases in income.

The City notes that the NSW Affordable Housing Ministerial Guidelines 2023/24 vary the income eligibility limits for Sydney and the remainder of NSW. The median income is used to split households into five quintiles. There are also more variations in household configurations with provisions for single and couples with and without dependent children. The income eligibility limit increases slightly for ongoing eligibility from the income limit for initial eligibility. This helps to deliver greater security of tenure and prevents prematurely terminating tenancies.

¹ <https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/employee-earnings/latest-release>

² <https://www.abs.gov.au/statistics/understanding-statistics/guide-labour-statistics/earnings-guide/average-earnings-guide>

The Rent Model

The discounted market rent model proposed will fail in high cost locations like the City of Sydney to deliver affordable housing for lower income households. An income based rent model is a much more effective alternative and should be implemented. The table below shows the gross weekly income of a number of common low income households. This is shown alongside the median weekly rent in the City of Sydney for the relevant number of bedrooms and the resulting income and discount market based rents³:

Household composition	Weekly gross income	# of bedrooms	Median weekly market rent	30% of income p/w	74.9% of median weekly rent p/w
Single part time working parent on benefits	\$861.54	2	\$985	\$258.46	\$738
Minimum wage couple	\$1,765.38	2	\$985	\$529.62	\$738
Student sharehouse	\$1,630.77	3	\$1,350	\$489.23	\$1,011
Hospitality worker	\$1,207.69	1	\$690	\$362.31	\$516.81

For all households the income based rents are more affordable. This ensures adequate funds are available for essentials like food, utilities, transport, health and other expenses.

The difference between the resulting rent from the two possible rent models is stark. For larger dwellings of three bedrooms and young people sharing accommodation, the difference is \$522 per week. Another household type acutely impacted by the unaffordability of discount market rent is single parent households. Those with one dependent face a \$479 per week gap if a discount market rent is used instead of an income based rent. This is a difference equal to more than half of gross income per week.

The vulnerability of some lower income households obliges decision makers to preference an income based rent model to deliver affordability and to improve the quality of life of households.

³ Weekly gross income: SGS Economics, November 2023, Rental Affordability Index, <https://sgsep.com.au/projects/rental-affordability-index> Median weekly rent: DCJ Rent and Sales Report, https://public.tableau.com/app/profile/dcj.statistics/viz/Rentandsales_16849924917120/Rent?publish=yes

If you would like to speak with a council officer about build to rent housing and affordable housing please contact Sam Ngui, Program Manager – Affordable Housing on 9265 9333 or sngui@cityofsydney.nsw.gov.au

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A-T'.

Andrew Thomas
Acting Director
City Planning | Development | Transport