

22 April 2024

Ms Diane Brown
Deputy Secretary
Revenue Group
Treasury
Langton Cres
Parkes ACT 2600

By email: btr@treasury.gov.au

Dear Deputy Secretary,

RE: Treasury consultation: Treasury Laws Amendment Bill 2024

HOME welcomes the opportunity to make a submission to the Treasury’s consultation on the proposed exposure draft of the *Treasury Laws Amendment Bill 2024: Build to Rent Developments* (“exposure draft”). We commend the government on its intentions to stimulate institutional interest and investment in the supply of much need Build to Rent (BTR) housing; however, unless major issues in the exposure draft are resolved, its objective will not be achieved. **Unamended, the legislation would be worse than the current unattractive regime.**

In addition to this submission, HOME has contributed to the financial analysis and submission made by the Property Council of Australia (Appendix A).

HOME has been a pioneer in the Australian BTR sector since 2017, purposefully designing, developing, and operating rental communities, including affordable housing. We have created a portfolio of approx. 3,000 apartments in various stages of operation, construction or planning making it one of the largest in the country. Today we house over 1,300 residents and 150 pets with a resident satisfaction score of over 90%.

Institutional investment in the sector has so far relied on the assumption that the federal government is willing to add to housing supply by making investment sustainable, as other governments around the world have in recent years and decades. Our capital partner, a major international institutional investor with significant BTR investments elsewhere around the world, has invested billions into BTR housing in Australian BTR on this premise.

Since its announcement almost a year ago, the cost of capital has increased, supply costs continue to increase, and ongoing planning and approval delays have made Australian projects less attractive than elsewhere around the world. Since the release of the exposure draft and its detail, we have fielded calls from our capital partner, along with other groups considering

entering the sector, that suggests this legislation will make new investment even less attractive with the added risk of currently committed investment being taken elsewhere.

This legislation should stimulate investment in BTR by creating a level playing field with other asset classes. Instead, in its current form, it will deter institutional investment and hinder the supply of desperately needed rental housing in Australia.

Recommendations

As one of the most experienced developers, operators, and owners of BTR housing in Australia, we urge immediate action be taken to amend the exposure draft. The most pressing issues are set out below.

- 1. Ensure the tax treatment for BTR is a level playing field with other asset classes, by including the 15 per cent MIT withholding tax rate for capital gains as well as for net rent income and removing the 15 year legibility period.**

As it stands, the 15 per cent tax rate only applies to rental income, not capital gains. This is inconsistent with other asset classes and disadvantages BTR.

Capital gains are the most significant component of the return on investment for develop-to-core BTR projects. Our modelling indicates that applying the concession to rent only would have negligible impact on total returns. **When combined with the affordable housing provision requirement, this would result in lower rates of return than at the existing 30 per cent rate.**

Further, the 15 per cent rate is only available for a 15-year period. Again, this is inconsistent with the treatment of other asset classes, significantly impacting investors in open ended BTR funds such as ours and limiting the value of assets to a secondary buyer.

The impact of these two issues alone, if left unaddressed, will ensure the legislation is completely ineffective.

- 2. Ensure the lower withholding tax rate provides a true incentive to housing delivery by removing its conditionality on the provision of affordable housing.**

We support the provision of affordable housing. However, this can only be achieved if it can be delivered in a commercially viable way. The reduced 15 per cent tax rate is required to put BTR on a level playing field with other asset classes and incentive housing supply generally. If affordable housing supply is to be similarly incentivised, it can only be viably done through additional concessions or incentives.

The current approach to mandate the inclusion of 10 per cent of affordable tenancies duplicates affordable housing requirements already imposed by state, territory and local governments. It is unclear how these various requirements would interact (i.e. take precedent or offset) with federal policy and how compliance would be monitored and enforced. This added layer of complexity, will inevitably cause confusion and uncertainty for BTR investors who will turn their focus to other asset classes or other markets in a globally competitive environment for capital.

Unless appropriate amendments are made, this legislation will not incentivise new housing supply, affordable or otherwise.

3. Ensure existing BTR assets can access the lower withholding tax rate.

At the time of the 2023 Budget announcement, HOME had four BTR projects either operating or under construction comprising approximately 1,900 rental apartments. These projects have pioneered the early development of BTR in Australia and provide a vital foundation of skills and experience that will enable the accelerated growth we would expect to see with the application of the lower MIT withholding tax rate.

Failing to extend the measure to assets operating or under construction risks these assets becoming stranded. They will be at a value disadvantage to later projects, as well as subject to a higher rate of withholding tax compared to other BTR assets.

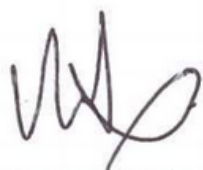
This results in a perverse and inequitable outcome that both wrongly penalises early investors in Australia's BTR sector and risks removing rental stock from the market if these assets are broken up for sale due to their competitive disadvantage with newer BTR assets.

Further, this will set a concerning precedent for new asset classes in the future, disincentivising early investors and stymying Australia's ability to innovate and foster new sectors.

If these existing assets were included, and the draft affordable housing provision requirements prevail, they could also add an immediate boost to affordable housing stock.

We request that the above recommendations, based on our experience as a developer, operator, and owner of BTR assets in partnership with international institutional investors, are adopted in the final legislation and welcome the opportunity to meet, discuss and resolve these issues.

Kind regards,



Christian Grahame

Head of HOME