

22 April 2024

Treasurer of Australia
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Send by email: btr@treasury.gov.au

To whom it may concern

Draft Build-to-Rent Tax Law changes

I am writing in response to Treasury's request for feedback on the effectiveness of the draft Treasury Laws Amendment Bill 2024: Build to Rent (BTR) Developments, and the associated explanatory material for the tax concessions for build-to-rent developments.

Urban Taskforce Australia welcomes the Federal Government's Draft Bill, as a measure of moving closer to the Nation Housing Accord's target of 1.2 million new homes by 2029. The reduction of the managed investment trust (or the MIT) withholding rate from 30 to 15 per cent for foreign corporations or investment trusts, and the increase of capital expenditure deductions to 4 per cent (otherwise known as depreciations) are viable ways to bolstering the build-to-rent market and increasing the supply of housing. They effectively bring the taxation arrangements for foreign super funds and corporations in line with the taxes applied to local investment in BTR.

However, the universal application of an affordable housing obligation of 10% of yield to be made available for 15 years at a discount to market rent of 25.1% is strongly opposed.

There are many areas of NSW and across Australia where there is no affordable housing levy of obligation associated with BTR or Build to Sell developments.

This is a new obligation from the Commonwealth. This draft Bill proposes that on the one hand, the taxation treatment for foreign investors will be effectively made the same as for local investors. The rationale is to encourage foreign investment in this rental accommodation to assist us overcome a supply and affordability crisis.

But the draft policy says you will only get the benefit of this equalisation of taxation treatment if you pay an affordable housing “tax”. This is not making the system equal and will effectively act to push foreign investment away. The States each have their own taxation arrangements for BTR (land tax and stamp duty). They simply require that foreign investors comply with the local rules (what ever they may be). This is exactly how this system should work and I suggest an amendment to the Bill is in order.

Further, Urban Taskforce Australia is aware that many foreign proponents of new developments have progressed with development activity into construction works with the understanding that these changes were already underway.

Under this Draft Bill, a build-to-rent development can only be an active BTR development (and receive the tax concessions) if its construction commenced after 7:30pm (AEST) on 9 May 2023. This presents unfair terrain for those proponents that were willing to move swiftly to provide housing supply, and in good faith acted early to deliver BTR housing supply in the reasonable expectation that the changes mooted to apply to these laws would apply to all projects that were under construction at the date of the announcement (ie 9 May 2023), not just those that commenced after that date.

What is required, in the midst of a housing supply and affordability crisis, is a landscape of incentivisation that rewards those who act early to deliver the targets of the National Housing Accord. An agreement that begins in just over two months.

Should you wish to discuss this matter further, please call our Head of Policy, Planning and Research, Stephen Fenn on 9238 3969 or via email stephen@urbantaskforce.com.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tom Forrest', with a stylized flourish extending from the end.

Tom Forrest
Chief Executive Officer