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Australia's property industry
Creating for Generations

25 October 2021

The Chair, Standing Committee on Tax and Revenue

By Email: TaxRev.reps@aph.gov.au

Dear Chair

Inquiry into housing affordability and supply

Our cities and towns are at their most liveable and productive when people and communities have the housing choice and affordable options they need. However, the job-creating success of *HomeBuilder* and NHFIC's *New Home Guarantee* highlights a housing supply crisis in NSW and QLD, while our Urbis research shows Australian capital city apartment supply will be only 21 per cent of 2018 levels by 2024.

The *Property Council*, whose members are the leaders of the industry across every asset class, and the *Residential Development Council*, Australia's leading developers, thanks the Committee for this opportunity to discuss the 3 best ideas for boosting housing supply productivity and affordability.

1. **Federal Housing Supply Deals** to unblock urgent supply bottlenecks (Sec. 1)
2. A Federal **'Harper' taskforce on National Competition Policy - style housing productivity incentives** including in the National Housing and Homelessness Agreement (NHHA) (Sec. 2)
3. **Prioritise the most productive supply investment reforms** (Sec. 3)
    - remove foreign surcharges on investment in new housing
    - level the Build-to-Rent housing playing field
    - implement right-sizing relief for Seniors and
    - apply the Property Council's *7 good stamp duty reform principles* across all states

We also note two immediate challenges to affordable housing supply beyond those in Section 1

- The NSW Planning Department proposes changes to the Commonwealth capital gains tax regime. Deloitte modelling of similar policies shows they are harmful; and
- Acknowledging APRA's thoughtful rationale as expressed to this Committee, we note the need for extreme care in targeting macro prudential action at agreed risk areas on the edge of the market, avoiding a broader confidence impact the nation's construction pipeline.

The burning platform – housing supply and planning deficits

People need housing choice and affordable options, whether they own or rent.

Good housing supply boosts the economic opportunity in our cities and towns through productivity benefits, construction job creation and whole of workforce employment flexibility.

As NHFIC's influential research capability shows, every $1million spent on new home building directly supports 9 full time equivalent jobs[1].

Worryingly, growth corridors housing supply is at crisis levels in NSW and Queensland. *HomeBuilder's* job-creating success has shone a light on this unmet demand. Likewise, the NSW Productivity Commission has identified a 54,000 NSW home supply deficit even without overseas migration. It has politely suggested measures to "address the drivers of delay and uncertainty, and bring New South Wales in line with best-practice" by 2025[2]. These are modest ambitions for the productivity of the bread-basket of the Australian economy.

At the same time, capital city apartment shortages loom by 2024. Detailed later, our Urbis research shows capital city apartment supply will shrink to 21 per cent as against 2018, as net overseas migration returns. To provide the homes Australians need and reduce the cost of creating them, we must sharply boost the productivity of state and local government planning and land supply and avoid tax red herrings.

Immediate tax and regulatory concerns – NSW Planning Department and macroprudential

Changes to CGT, as proposed by the NSW Planning Department, hurt jobs and the economy. The Property Council commissioned Deloitte to model the former ALP policy on CGT and negative gearing and they found an annual $766 million hit to construction and a $1.6 billion GDP drop.

In the case of the NSW Planning Department, Federal tax change proposals are an unwelcome distraction from the bread-and-butter work of a state government department that is widely acknowledged to be trailing the nation in meeting the housing demand of its citizens.

On macro-prudential policy, we acknowledge that APRA's initial action has a clear policy rationale. In any deliberations that touch on APRA's efforts to avoid undue household risk on the edge of the market, we know that all market observers are mindful that the last time Australia stamped on the macro-prudential brakes, in the shadow of the Hayne Royal Commission, our national housing supply pipeline was hit hard.

This time, both general fiscal support and the *HomeBuilder* halo are receding from the economy and the big economic engine of migration-based population growth is yet to restart.

Key Residential Development Council research for the Inquiry

Over the past decade, our Residential Development Council, the nation's leading housing providers, has commissioned essential research into the society-wide benefits of good supply of brownfield and greenfield land, housing choice and more efficient planning systems.

We attach three of these important reports in a separate appendix to help inform the Committee's deliberations in the coming months and summarise them below. All attached in the Appendix.

1. In 2016 we commissioned *Federal Incentives for Housing Supply* (The Harper Report), via Deloitte and Professor Ian Harper AO, which shows that **the Federal Government can and should play a leading role in measuring and incentivising state planning progress** on supply, choice and planning efficiency.

2. In 2020 we commissioned *Planning to Prosper*, via Urbis, which identified **$5.6 billion in added value from state and territory planning improvements** tailored to each jurisdiction.

3. Our 2021 report *Jobs and Homes: Australia's Apartment Supply Crunch*, again commissioned via Urbis, shows the **likely 2024 apartment supply pipeline across Sydney, Melbourne, Brisbane and Perth will be only 21 per cent of 2018 levels** if nothing is done. This will be a big challenge for State governments when net overseas migration returns to 230,000 people per year.

In conclusion

The success of the job-creating *HomeBuilder,* and similar state schemes, highlights the immediate **lack of affordable, 'shovel-ready' land supply in NSW and Queensland in particular**.

In this submission we touch on the key factors diminishing affordability, elaborate on our 3 best ideas for boosting housing supply productivity and affordability and detail recommendations that could help all levels of government measure and incentivise better supply, affordability and choice of housing.

To the extent the Committee is looking at social housing, the Property Council is engaged in the emerging policy work of NAHA (the National Housing Affordability Alliance).

We look forward to speaking with the Committee at the hearings in due course and will provide supplementary commentary as needed.

Yours faithfully and with thanks,

Michael Zorbas
Group Executive, Policy and Advocacy, cc Ken Morrison, CEO

PROPERTY COUNCIL REFORMS ON A PAGE

1. **Federal Housing Supply Deals** to unblock urgent planning and infrastructure bottlenecks and support state and local government delivery of the nation's housing supply (Section 1)

It is 3 years since renowned Urbanist Professor Greg Clarke wrote about Australia's city-governance deficit in his landmark report for the Property Council, *Creating Great Australian Cities*. A large part of this is the failure to ensure adequate supply of well-serviced housing to keep downward pressure on prices. Strategic investments in places like South West Sydney and Caboolture hold great housing promise.

All governments must play their part in housing Australians through State Planning Ministers and local governments, including much needed social housing, preferably from consolidated state revenues. Where the Committee is looking at social housing, the Property Council is engaged in the emerging policy work of NAHA (the National Housing Affordability Alliance).

2. An expert Federal taskforce designing National Competition Policy-style **Federal housing productivity incentives for states**, territories and/or local governments (Section 2)

As first proposed in the 2016 Property Council Deloitte Report *Federal Incentives for Housing Supply,* undertaken by Professor Ian Harper AO, National Competition Policy-style supply and housing incentives could boost state housing supply and spur state housing production within 3 years.

A government/industry taskforce under Professor Harper or another eminent expert would assist the Productivity Commission and the excellent NHFIC research team to establish a credible framework for annual productivity score-carding and ranking of state and territory housing strategies and homes produced as well as the tax and regulatory costs embedded in the average new home in each jurisdiction. This would also contribute to the Productivity Commission review

The nation needs a transparent understanding of future need for, and availability of, housing-suitable land in our cities' inner, middle and outer rings to properly address the affordability challenge.

3. Prioritise the **most productive supply investment reforms** (Section 4)

The simplest investment reforms to boost supply and housing affordability are

a. reducing state overseas investor surcharges on individuals (who effectively 'seed' new apartment developments)
b. equalising overseas investment in Build-to-Rent housing with student accommodation
c. implement right-sizing relief for Seniors and
d. adopting the *Property Council's 7 good stamp duty reform principles* in your recommendations to avoid market distorting stamp duty changes, as per the ACT efforts, see Section 3.5

Other important pain points to review include the longstanding duplication of Federal and State environmental approvals, currently stalled by the Senate.

Inquiry into housing affordability and supply in Australia

Our cities are most liveable and productive when people have the housing choice and affordable options they need:

1. Federal Housing Supply Deals to help unblock planning and infrastructure bottlenecks

2. A Federal 'Harper' taskforce on NCP-style housing productivity incentives for states

3. Prioritise the most productive supply investment reforms

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PROSPERITY | JOBS | STRONG COMMUNITIES

Create *Federal Housing Supply Deals* with States to unblock housing

Federal 'Harper' taskforce for NCP-style housing & planning incentives

Reboot our national apartment construction pipeline for 2024

Do the simplest supply investment reforms – foreign surcharge removal and BTR tax levelling

Promote the 7 principles for good stamp duty reform

Provide right-sizing relief for Seniors

Resource single-touch environmental approvals

Pursue only the most targeted and patient APRA action over the cycle

Contents

> Australian cities score more highly on perceptions and expectations of the city than they do on actual performance. Improving housing affordability is about boosting supply, and it's also about place-making and opportunity, and making sure people have many different types of housing choices with different financial equations around them.

Global Cities Expert Professor Greg Clarke
launching the Property Council of Australia's
Creating Great Australian Cities
25 May 2018

1. Key challenges diminishing affordability

There are 7 key factors within the terms of reference that put upward pressure on housing prices and can be addressed through our NCP style incentives, Housing Deals and investment reforms.

The prioritization of these factors assumes that net overseas migration returns to circa 230,000 people a year in line with Federal Government forecasts and reflects that low interest rates are currently outside the direct control of Federal and State governments.

1

High and complex Federal, state, and local taxes - especially those on overseas investment. These are 30-40% of new home costs and deter the investment required to build our cities.

2

Inadequate strategic housing supply.
Key states, especially NSW, have failed to provide enough properly zoned land to meet the demand for new dwellings.

3

Inefficient planning in key states. A culture of 'no' or 'slow', resourcing gaps and process 'black holes' in approval authorities and local governments and between agencies and utilities.

4

Over-reliance on minimum lot and apartment sizes, directly raising the market entry point regardless of the quality and liveability of the design and the clear market demand for smaller product.

5

The lack of a framework for a well-developed Build-to Rent housing sector.

6

The lack of incentives for seniors to 'right size' their housing options.

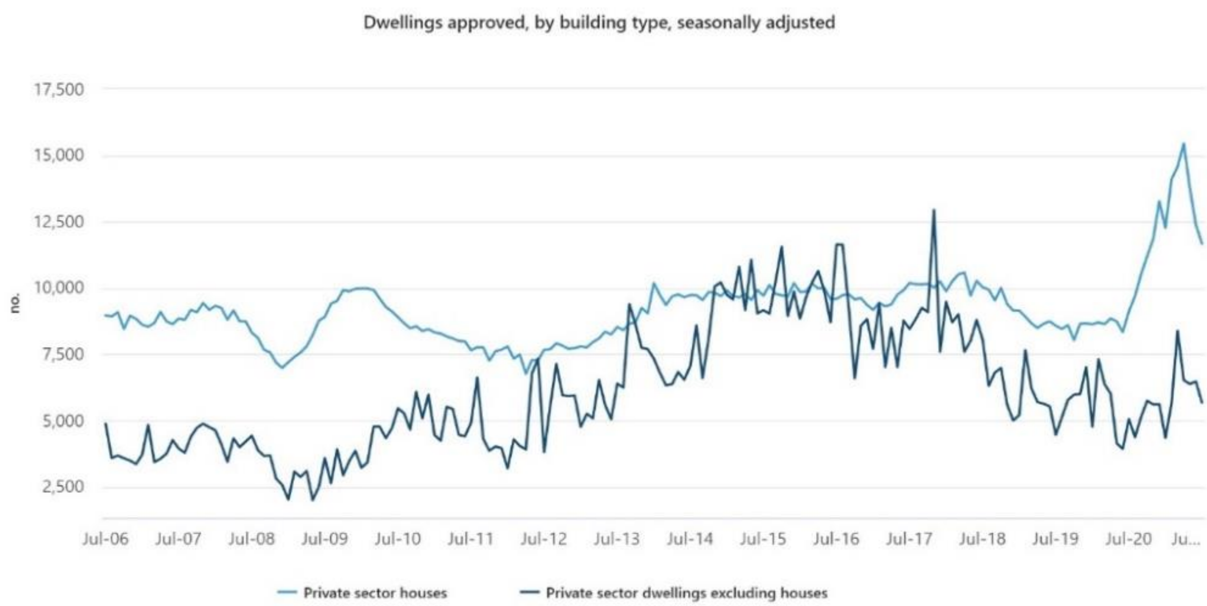
7

The emergence of 'inclusionary zoning' in response to forty years of governments' supply failures. This raises the purchase cost of all other homes across the same development without achieving the worthy 'scale' social housing outcomes sought.
Social housing should be funded from governments' lavish existing property tax revenue.

1.1 State by state opportunities

When plans are out of date, new housing hasn't been zoned, rules are complex or uncertain and assessment is slow, the result is less housing supply than Australia needs.

The result of this failure of strategic action can be seen in Australia's stagnant building approval rates for detached housing and declining apartment approvals, accounting for pandemic related activity.



Source: Australian Bureau of Statistics, Building Approvals, Australia July 2021

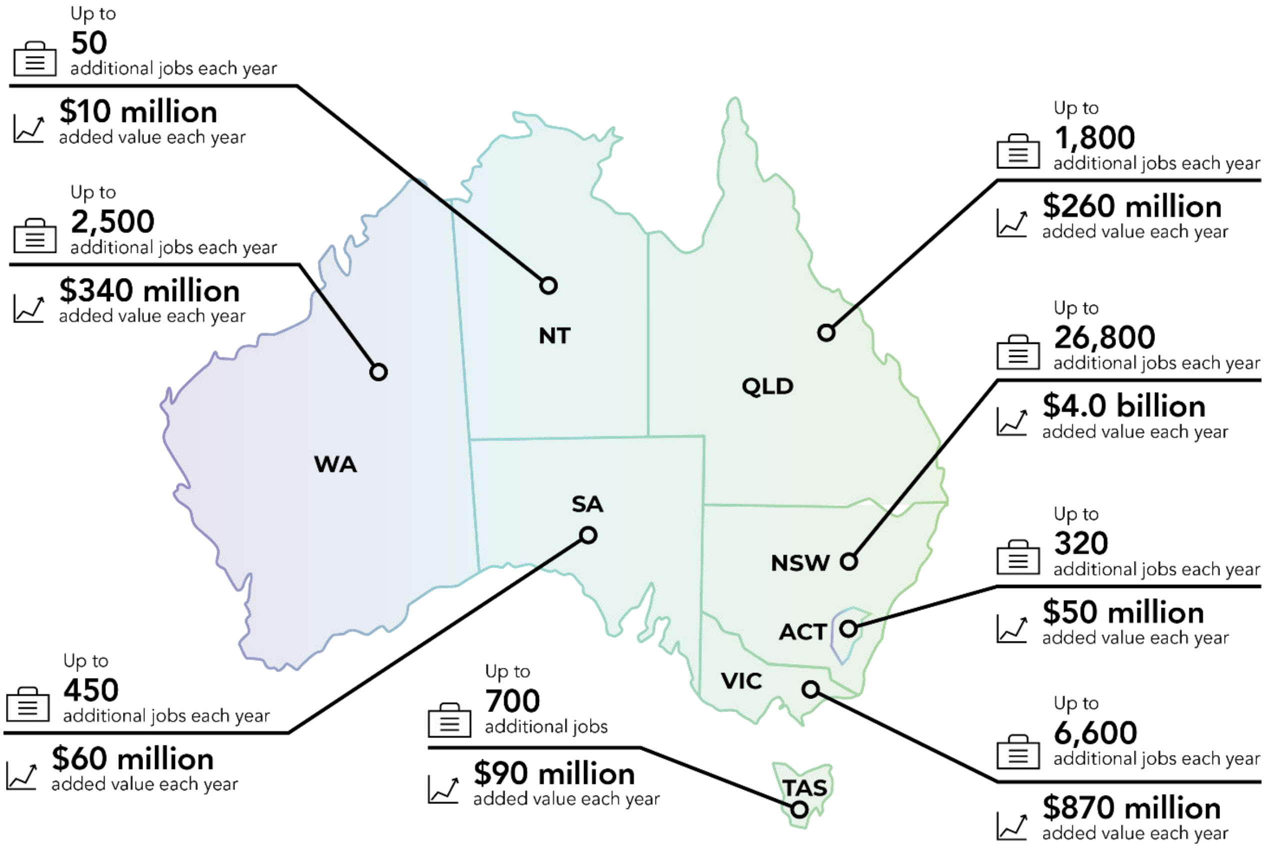
Highlighting the cost of planning at a state level, modelling prepared by the WA Division of the Property Council in their August 2021 report, *Planning to Deliver*, found that even if the red tape costs incurred by Western Australia's property industry represent just one per cent of the value of building permits in the first six months of 2021, they would exceed $80 million in GSP impact.

The reality is these costs are far higher than one percent of the end value of development.

Recently, The Property Council commissioned Urbis to review nationwide opportunities from improvements in strategic planning.

The *Planning to Prosper* report, attached in the appendix to this submission, found **the Australian economy has the potential to gain up to 39,200 additional jobs and almost $5.6 billion in added value over the forward estimates around the nation if key planning reforms are adopted.**

Estimated Potential Jobs and Economic Value Added



The Property Council Urbis research found that there are three similar strategic reform areas that would reduce approval process delays and deliver more housing across Australia.

1. **Transparent and rapid processes around re-zonings.** This includes ensuring local governments are accountable for helping the state meet its housing needs. Rezonings are a major pain point on the urban fringe and for delivering housing in areas close to transport where the strongest benefits in liveability and urban productivity are available.

2. **Accountability for inter-agency referrals**, especially decision-making timeframes.

3. Ensuring simple proposals undergo simple assessment processes including **'complying development' and private certification pathways, to accelerate approvals and release capacity within consent authorities** to assess non-complying developments.

1.2 The looming apartment crunch

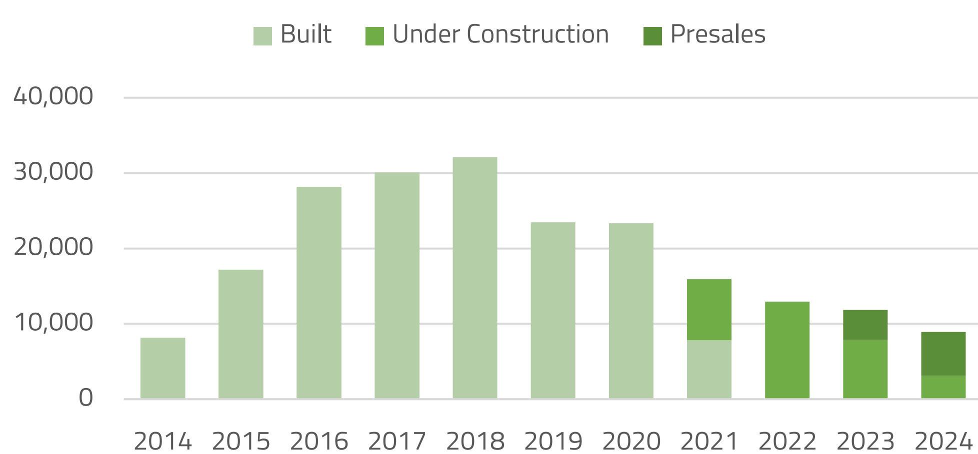
Further research conducted by Urbis for the Property Council across Brisbane, Sydney, Melbourne and Perth shows that falling apartment approvals mean **the number of apartments built in 2024 will be only 21 percent of those built in 2018.** See Appendix.

Apartment developments typically take between three to five years to come to market from approval to completion, meaning that Australia will continue to have a long lag in supply of high-density housing unless approvals are increased now.

This is a looming problem that will further highlight the lack land supply for detached housing. *HomeBuilder* and similar state programs helpfully boosted detached housing approvals, however the relatively short eligibility time frames meant these **governments' stimuli enhanced detached housing supply pipelines but did not create the momentum for new investment in apartments.**

As population growth switches back on with border re openings these undersupply concerns become even more pressing. In the meantime our Urbis research shows that without immediate investment in apartments, Australia risks:

- Losing nearly $6bn in construction value alone;
- Losing up to 30,000 construction jobs over the next four years; and
- Undersupply and so price escalation when international migration recommences.



The solutions include providing relief from foreign buyer surcharges, accelerating planning approvals, extending off-the-plan apartment stamp duty concessions, and removing land tax barriers to Build-to-Rent projects.

They also include providing adequately zoned city and suburban land which is part of the larger supply equation.

1.3 The zoning and supply challenge – NSW in the spotlight

Australia's planning and zoning systems continue to be disjointed and inefficient across eight key jurisdictions relative to Australia's small population.

While there has been some improvement to planning systems the pace of reform continues to be too slow, and **few meaningful planning and supply improvements of adequate urgency are occurring in larger jurisdictions, especially NSW and Queensland.**

Part of the cost increases arise from a disconnect between state and local governments on planning and zoning.

As the Productivity Commission found:

"…misalignment arises from several sources, including disagreements between levels of government on visions for urban areas, particularly how they might accommodate population growth; the scope and sometimes the necessity for interpreting how State strategic plans and statutory planning requirements are to be applied at the local level; and the discretion and authority of Local Governments to determine local land uses in accordance with their particular preferences."

October 2017, https://www.pc.gov.au/inquiries/completed/productivity-review/report

NSW is the prime example of a planning system that currently lets its citizens down in the provision of housing that is affordable.

The NSW planning system consistently has the poorest housing supply and price outcomes in Australia, by the Government's own measures, despite the genuine good intentions of many state and local decision-makers in the planning system.

The Greater Sydney Region Plan, *A Metropolis of Three Cities*, identified the need for an additional 725,000 new dwellings over the 20 years to 2036, allocated across five districts (Greater Sydney Commission, 2018a).

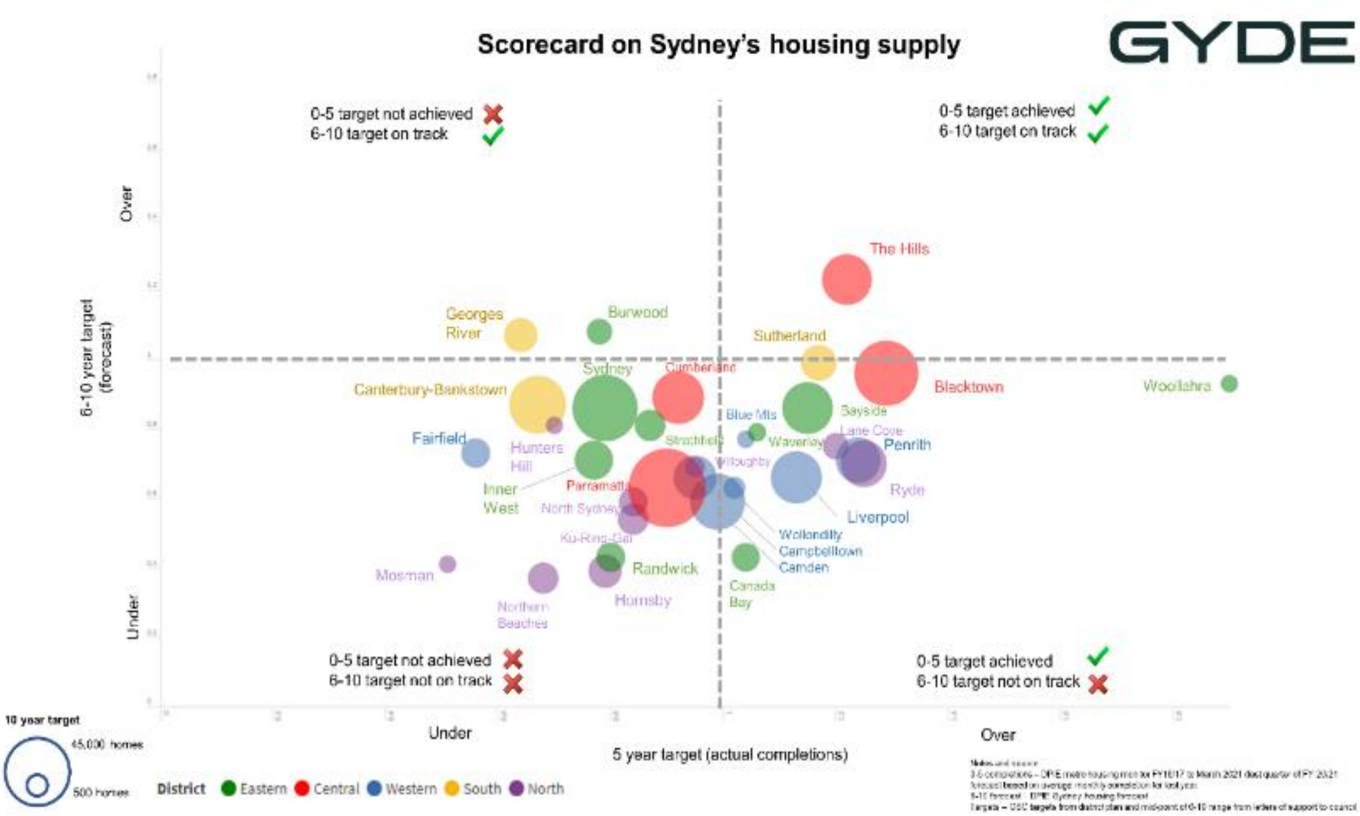
To meet the dwelling need for the first five years, councils and the Greater Sydney Commission agreed on an allocation of '0–5 year' targets that largely reflected the existing housing construction pipeline.

At the request of the Property Council, Gyde consulting used the NSW Planning Department's own housing supply data to track how each Sydney council was progressing towards achieving the 0-5 year and 6-10 year housing targets identified in the Greater Sydney Commission's Regional and District Plans.

Th graph below shows that only one council – The Hills – is set to achieve their targets.

The vast majority of councils will fail to deliver both their 0-5 year and 6-10 year housing targets, with some achieving their 0-5 year target but failing to deliver their 6-10 year housing requirement.

All this delay adds to the cost of new housing: higher land holding costs, higher labour costs and inefficiencies in project delivery are all eventually passed on to the home buyer.



1.4 Federal Housing Supply Deals – unblocking state and local supply bottlenecks

Federal Housing Supply Deals with State and Local governments can offer a significant opportunity for unlocking potential housing supply in NSW, Queensland, Victoria, Western Australia and Adelaide.

It is appreciated the Committee is not seeking to make recommendations on the design of such deals.

It is also clear that state and local governments need help to improve their delivery of affordable housing and there is a brief window of opportunity to apply downward pressure on prices by improving supply in key growth corridors over coming years.

With net overseas migration likely to recommence in earnest before 2024, now is the time to unlock significant sections of land on the urban fringe of our largest cities and towns through targeted planning and infrastructure spending.

Connecting roads, sewerage, water and other infrastructure are all that is required to unlock significant new housing supply in NSW and Queensland in particular.

As is demonstrated in Section 1.1-1.3 supply gaps are already large and growing in key detached housing markets and are looming mid-decade in apartment supply for the major capitals.

While apartment supply needs significant state attention, the Commonwealth can amplify the emerging support it is providing for detached housing delivery in greenfields areas through increasingly influential agencies such as NHFIC and also by striking direct Housing Supply Deals where it funds key infrastructure or planning projects.

The Property Council will have more to say on this at the upcoming hearings.

All governments must play their part in housing Australians through State Planning Ministers and local governments, including much needed social housing from consolidated state revenues.

As previously noted, where the Committee is looking at social housing, the Property Council is engaged in the emerging policy work of NAHA (the National Housing Affordability Alliance).

The need to produce a well-oiled machine to ensure the sustainability of long-term national housing production by aligning state and local government incentives is dealt with in Section 2.

2. A Federal 'Harper' taskforce

2.1 The benefits to all governments of National Competition Policy - style housing productivity incentives

The Productivity Commission's 2017 report, ***Shifting the Dial*, highlighted better functioning towns and cities as a reform priority that could deliver a $29 billion increase in Gross Domestic Product.**

However, state and territory governments continue to underestimate the economic harm done by poor planning processes. In so doing, governments often pass over reforms allowing new housing supply to meet demand and help grow the economy.

In its recently released 2021 *Australian Infrastructure Plan*, Infrastructure Australia noted that Australia's cities needed to elevate medium density and terrace style housing in the middle ring of our cities, increasing supply. However, urban housing supply is at risk because of increasingly restrictive planning instruments.

The Property Council's ***DA (Development Assessment) Report Cards* conducted in 2009, 2012 and 2015 established that state and territory governments do not fully appreciate the negative impact of poor planning processes.** The series of *DA Report Cards*, commissioned via MacroPlan, used the Development Assessment Forum's (DAF's) Leading Practice Principles to assess the success of planning reforms.

This well-regarded benchmark report series consistently demonstrated that the implementation of reforms to improve housing supply has been slow and inconsistent year after year. And as the Harper Report points out in the table below, the benefits from incentives that would drive real reform accrue to all governments.

Table 6.1: Example benefits and costs accruing to different tiers of government

	Federal	State	Local
Benefits			
GDP growth and income tax revenue	✓✓		
GST revenue uplift		✓	
Other property taxes		✓	✓
Planning efficiency		✓	✓
Labour force participation and supply	✓	✓	
Liveability	✓	✓	✓
Costs			
Infrastructure	✓	✓	✓
Political risk in implementing planning reform (e.g. for high density)		✓	✓

2.2 Why will Federal productivity incentives help?

Commonwealth productivity incentives will improve land supply and housing affordability across Australia, despite most of the policy levers and data on progress being held at the State and Local Government level.

The Harper Report identifies **four main reasons National Competition style payments for reform and delivery will be good for the nation**,

"First, housing supply directly relates to a number of issues relevant at the Commonwealth level, such as migration, population growth, infrastructure and economic growth.

Second, the efficiency of the planning systems in Australia is a national economic issue.

Many housing developments are delivered by businesses that operate across jurisdictional boundaries, so reducing complexity becomes important.

Third, the benefits associated with improved housing affordability with respect to increased GDP growth and tax revenue collections are likely to be primarily realised at the federal rather than the state or local level.

In contrast, many of the changes to be implemented and the costs to be incurred will fall on State and Local Governments.

As such, an incentives framework represents a means to rebalance the flow of benefits.

And finally, the Federation is rarely negotiated . . . and this could provide a good opportunity to coordinate intergovernmental policy action to improve land supply and housing affordability in Australia."

2.3 Input and output metrics needed for incentives to work

In 1992 the then Prime Minister announced an independent inquiry into a national competition policy.

Known as the Hilmer Committee, after its chair Frederick Hilmer, the inquiry reviewed a wide scope of competition reforms, addressing policy areas administered across different levels of government. The committee reported in 1993 making recommendations across six policy areas.

The Harper Report goes into some detail about practical metrics but **ultimately a contemporary process would need to be negotiated by a credible expert of the calibre of Professor Harper, with the assistance of the Productivity Commission and NHFIC.**

"As such, the most suitable performance metrics in an incentives framework are likely to be a combination of metrics that relate to inputs and outputs that can be directly linked to policy activity while also measuring housing market outcomes. Consistent with the principles, these metrics should be mutually agreed on between the Commonwealth and States and Territories, and then be a focus for achieving in the future.

The use of these metrics should also be tied to the underlying principles of performance reporting to enhance accountability and a strong use of financial incentives. That is, jurisdictions should report on their progress in relation to these metrics at a regular frequency, and financial incentives should be provided on the basis of this progress. Previous experience …suggests that financial incentives provided to jurisdictions by the Commonwealth are likely to be the most effective type of incentive for motivating reform on land supply and housing affordability across the different tiers of government.

This is consistent with the Australian experience from the National Competition Policy, with the Productivity Commission (2005) finding that 'the provision of financial incentives to the States and Territories, allowing them to share directly in the fiscal dividend from meeting their agreed reform commitments, has also played a critical role in keeping the reform progress on track'.

It was found that even small reductions in incentive payments for non-compliance with NCP commitments were sufficient to encourage reform. In that sense, payments were not wholly based on estimates of economic benefits and were instead used to stimulate action rather than recompense benefits."

2.4 An expert taskforce to design the best NCP-style productivity incentives

A taskforce, chaired by a respected expert, would work collaboratively with NHFIC, Commonwealth Treasury, the Productivity Commission, states and local governments to establish delivery metrics and incentives to drive productivity improvements in planning and supply.

Federal demographic and population forecasts would form the basis of discussions and the taskforce would use the elements of the original Harper Report as a starting point.

"The basis of determining the metrics against which incentive payments could be awarded should involve consultation between Commonwealth and State Governments.

Starting points for that discussion could involve performance metrics for:

- *Strategic state plans that include housing targets;*
- *The translation of these strategic objectives into statutory planning frameworks, with more streamlined planning systems that provide state and local agencies with the tools required to deliver on housing targets in a timely and efficient manner, so that housing can be delivered at lower cost;*
- *The nature of the housing targets themselves, including the type, number, location and the relative affordability of the housing supply; and*
- *Other important features of housing, such as density and access to infrastructure."*

Overall 'dashboards' of metrics would be agreed between the Commonwealth and the States, reflecting both national and state-specific metrics.

Data measurement, collection and reporting would form part of any agreement, as would the framework for tying payments to the specific metrics.

To again quote the Harper Report,

"A similar scorecard would be developed for each State at the commencement of the framework, potentially with weighting of the metrics determined in collaboration with each State to reflect the focus of reforms and current perceived problems.

An annual scorecard comparing the States across consistent metrics would be created to provide comparability and establish best practice outcomes chosen."

3. Do the most productive supply investment reforms

3.1 Property's supersized tax contribution to State and Local Tax Revenues[1]

Well in excess of one third, and often more than 40 per cent, of housing construction costs are wrapped up in federal, state and local government taxes, surcharges and levies and these form a disproportionate part of state and local government revenue and budgets.

State and local governments are overwhelmingly reliant on taxing housing and especially new housing as taxation targets. This is lethal for housing affordability.

The scale, complexity and inconsistency of taxes and surcharges levied on property across the country weigh heavily on the cost of construction.

However, tax reform, especially well-intentioned Stamp Duty reduction, must be approached with care as the retrograde ACT experience demonstrates so clearly.

This is detailed further in section 4.5.

Economic Significance of the Property Industry to the Australian Economy, AEC Group, 2020.

3.2 The plethora of taxes and levies applied to property in Australia

It goes almost without saying that the, non-exhaustive, list below contains a remarkable number of taxes that drive inefficiencies, costs and delays in the construction of new dwellings.

Infrastructure charge	Insurance tax	Payroll tax	Foreign Investor Land tax
Foreign investor stamp duty	Land tax	Stamp duty	FESL
Biodiversity levy	Negative vegetation offset	Growth area infrastructure charge	Lease variation charge
Car parking levy	Metropolitan planning levy	Special infrastructure contribution	Drainage fees
Building warranties	Land Title fees	Utility charges	Open space levies
Workcover	Affordable Housing levy	Energy rating fees	Statement of compliance fees
Development application fees	Council rates	Rezoning applications	Planning permit fees
Building certificate fees	Building inspection fees	‘Windfall Gains’ Tax	

Comparison of tax treatment across housing types

The table below provides a high-level summary of tax treatments across housing types. The actual outcomes for individual projects will vary depending on all relevant considerations.

Further, the table assumes the development will only involve one particular type of housing. Increasingly developments will involve a mixture of different types of premises to establish integrated communities.

This can exacerbate the complexities from a tax perspective, often requiring an apportionment of costs between different components of a project.

The below table provides a high-level summary of tax treatments across housing types. The actual outcomes for particular projects may vary depending on all relevant facts. Further, the table assumes the development will only involve one particular type of housing. Increasingly developments will involve a mixture of different types of premises to establish integrated communities. This can exacerbate the complexities from a tax perspective, often requiring an apportionment of costs between different components of a project.

	Build to sell	Build to rent	Retirement (note 3)	Student accommodation	Disability care	Affordable rental
GST credits for development costs (note 1)	✓ • Full input tax credits on land and development costs, GST on sale	✗ • No input tax credits on land and development costs • No GST on rent	✓✗ ***For profit operators:*** • No input tax credits on land and development costs • No GST on resident fees (akin to residential rent) ***Endorsed charities:*** • Full input tax credits on land and development costs, no GST on resident fees This creates a two tiered market.	✓✗ • Commercial residential premises – full input tax credits on land and development costs, 5.5% GST on accommodation charges May not qualify as "commercial residential premises" if built on university owned land, in which case treated the same as build to rent.	✓ • Special Disability Accommodation (qualifying NDIS accommodation) – full input tax credits on land and development costs, no GST on rents	✓ • Affordable housing (if supplied by an endorsed charity, such as a Community Housing Provider) – full input tax credits on land and development costs • No GST on rents The GST concession does **not** apply if social housing is owned by a Government agency – in which case it is the same as build to rent.
MIT WHT	NA	30%	30%	15% for commercial residential premises	15%	15%
Exempt from foreign investor stamp duty surcharge (note 2)	✓ • Generally exemptions apply if develop within certain period	✓✗ • Need specific exemptions – e.g. NSW concession regime	✓✗ • Depends on state – caught in SA	✓✗ • Depends on state – carved out in VIC if commercial residential premises, caught in SA	✓ • Generally exemptions apply if the operator is a charitable institution	✓ • Generally exemptions apply if the operator is a charitable institution
Exempt from foreign investor land tax surcharge (note 2)	✓ • Exemptions apply if develop within certain period	✓✗ • Need specific exemptions – e.g. NSW concession regime	✓✗ • May be caught during the development phase, unless discretionary relief is allowed (depending on State)	✓✗ • Depends on State – in NSW is carved out if not considered "residential" • Surcharges may apply in VIC and QLD unless exempted	✓ • Generally exemptions apply if the operator is a charitable institution	✓ • Generally exemptions apply if the operator is a charitable institution
Subject to land tax at general rates?	✓ • Yes, but typically only a cost for developers during the development phase	✓✗ • Yes, on an aggregated basis – which penalises instutional investors. NSW and VIC have introduced concessions for qualifying projects.	✓✗ • Generally exempt once completed and operating. Land tax may apply when a development site is acquired and prior to development, unless the owner is a charity.	✓✗ • Yes, unless a charity exemption applies	✓ • Depends on State, may be exemptions and/or charity concessions	✓ • Generally exemptions apply if the operator is a charitable institution

Note 1: If intentions change (for example, a developer that builds to sell decides to lease based on market conditions), this can result in complex and significant GST adjustments.

Note 2: In relation to foreign investor duty and land tax surcharges, we note the concept of when an entity is "foreign" varies between jurisdictions. NSW adopts FIRB concepts, whereas other jurisdictions have their own tests. In Victoria, the tests also vary depending on whether the relevant tax is duty or land tax.

Note 3: GST comments assume retirement village is built to hold for more than 5 years. If a retirement village is developed within an intention to sell upon completion, a high level of input tax credits (more than 90% may be available on costs and GST will apply on the sale (unless sold GST-free as a going concern).

3.3 Some property taxes are more harmful than the average

Not all of the taxes listed on the previous page are equally harmful. Notably some taxes have a deeper impact on new home buyers in regional cities where land costs would otherwise be lower.

As is noted by others, Stamp Duties are deeply inefficient taxes that stunt both transactions and the mobility of employees.

Any reform of stamp duties should be approached with extreme caution and using the Property Council's *7 principles for good stamp duty reform*, given the economically harmful ACT experience outlined in section 4.5.

Some taxes that are particularly damaging to affordability include:

- **The recent 'Windfall Gains' Tax introduced by the Victorian Government. The most alarming tax to emerge in recent years**, this blatant attempt to inefficiently fill the Victorian Government's coffers will take the cost of a 650m lot in Ballarat from $250,000 up to $284,000. The impost of this new tax on top of other existing taxes inevitably makes new homes far more expensive. It is a kick in the guts for new home buyers.

- **Surcharges on international investors**. The politically popular rise of 'foreign investor' taxes on top of state stamp duties on Australian housing stock continues to dent interest in individual apartment investments which, as detailed in our 2021 report *Jobs and Homes*, attached, is a factor in the looming supply crisis and likelihood of significant price hikes from 2024. Historically, a significant percentage of the circa 30% of pre-committed buyers needed to commence an apartment project to the satisfaction of investors and banks were overseas investors. In many segments of the market this began to drop away pre-pandemic due to the imposition of these surcharges.

- **Developer Contributions.** As the National Housing Finance and Investment Corporation (NHFIC[2]) noted in its recent research developer contributions alone can add between 8-11% of total housing construction costs, which adds approximately $85 000 to the cost of a home in NSW and $42 000 to the cost of a house in Queensland. The transparency of the use of these taxes is very low.

NHFIC – Developer contributions – How we should pay for new local infrastructure? https://www.nhfic.gov.au/research/researchreport/developer-contributions-how-should-we-pay-for-new-local-infrastructure/developer-contributions-how-should-we-pay-for-new-local-infrastructure/

3.4 Stamp duty rates are rising, partly due to damaging ‘foreigner’ surcharges

As the Property Council’s collated 2020 figures demonstrate below, **it is easy to see why there is a degree of academic and business enthusiasm for reforming inefficient stamp duties.**

Stamp duties form a very large part of government revenues in key states and directly add to home prices for existing and new dwellings.

These are substantial taxes that impede the ease of transacting and the mobility of people who may need or want to change suburbs, cities or states for education, family or work purposes.

($ billions)	Australia	NSW	VIC	QLD	SA	WA	TAS	NT	ACT
Government income: stamp taxes	24.31	8.76	6.93	4.66	0.81	2.31	0.39	0.15	0.3
($ billions)	Australia	NSW	VIC	QLD	SA	WA	TAS	NT	ACT
Government income: land taxes	10.38	4.23	3.09	1.31	0.62	0.8	0.11	0	0.14

In recent years, **politically popular taxes on ‘foreign investors’ have gained ground as laid out in the table overpage.**

These taxes on top of existing duties should more accurately described as taxes on international investors who help create our housing stock and build our cities.

As detailed in the attached 2021 Urbis report *Jobs and Homes,* it is easy to see the negative impacts of the introduction of foreign investor surcharges on apartment supply over the past few years.

These should be scaled back to encourage both sustained economic recovery and investment in apartments where there is a supply crunch looming in our major cities, and a $6bn gap in construction volumes looming, see Section 1.2.

Comparison of tax treatment across housing types

Jurisdiction	Commercial	Residential
NSW	• Maximum rate of 5.5%	• Maximum rate of 5.5% • Premium rate of 7% applies to residential property exceeding $3,194,000 • Additional 8% surcharge applies to foreign purchasers of residential property
VIC	• Maximum rate of 6.5% •	• Maximum rate of 6.5% • Additional 8% surcharge applies to foreign purchasers of residential property
QLD	• Maximum rate of 5.75%	• Maximum rate of 5.75% • Additional 7% surcharge applies to foreign purchasers of residential property
WA	• Maximum rate of 5.15%	• Maximum rate of 5.15% • Additional 7% surcharge applies to foreign purchasers of residential property
SA	• No stamp duty on commercial property (assuming 'qualifying land' per Land Use Code)	• Maximum rate of 5.5% • Additional 7% surcharge applies to foreign purchasers of residential property
TAS	• Maximum rate of 4.5%	• Maximum rate of 4.5% • Additional 8% surcharge applies to foreign purchasers of residential and primary production property
ACT	• Maximum rate of 5% for land value over $1.6 million	• Maximum rate of 4.54%
NT	• Maximum rate of 5.95%	• Maximum rate of 5.95%

However, for the purpose of this Committee's recommendations, the most important point to make, against the backdrop of enthusiasm for stamp duty and land tax 'swaps', is that **any stamp duty changes advocated by the Inquiry will need to adhere to the Property Council's 7 principles for good stamp duty reform.**

3.5 The Property Council's 7 key principles for good stamp duty reform

Absent GST reform, still the smartest option for an efficient economy, the challenge for governments is to design a stamp duty replacement tax that is not itself distorting or economically harmful.

The 'stamp duty land tax swap' experience in the ACT highlights the critical risks that need to be addressed to avoid moving from one bad tax framework into another. **In the ACT, almost halfway through the reform plan timetable, higher valued commercial properties remain subject to a 5% stamp duty and an annual property tax rate of about 5.5%.** This imposes significant burdens on household budgets and acts as a handbrake on business and investment.

We commend the NSW Government's commitments not to replicate the ACT experience.

If the Inquiry is to make comment or recommendations on stamp duty reform, we would appreciate reference to the Property Council's 7 principles for good stamp duty reform:

1. **Genuine opt-in choice.** This is crucial to ensuring no 'double tax' i.e., where a taxpayer pays both stamp duty and property tax (as is the case in the ACT currently).
2. **Reform does not result in higher taxes for the commercial property sector.** The ACT experience has unfortunately resulted in a disproportionate share of the tax burden on the commercial sector. Capital is mobile, and any increase in the overall taxation burden on commercial property will hurt the attractiveness of NSW commercial property. This would have a clear negative impact on jobs and investment.
3. **Recoverability of property tax for commercial property owners.**
4. **No increase in cost of housing development**. The setting of the property tax rate that applies for residential developers should not increase the cost of housing development or reduce housing diversity or choice.
5. **An 'open to all' reform model – no transition thresholds**. We believe that there should be no thresholds. This would minimise distortions in the market.
6. **Tailored approach for property types that do not fit clearly within the residential or commercial categories.** Build to Rent, Retirement Villages and charitable institutions are currently concessionally taxed or exempt from stamp duty and land tax.
7. **Underpinned by a robust valuation framework based on unimproved land value**. Last but not least, some Federal tax approaches inhibit investment in asset classes that will add to supply.

3.6 The benefits of a level playing field for investment in Build-to-Rent housing

Build-to-Rent housing is purpose-built to give people longer-term rental options, a high level of on-site services and amenities and flexible leases that are centrally and professionally managed, often with onsite support.

Build-to-Rent communities also add to housing supply and construction employment throughout the economic cycle because the patient capital that invests in Build-to-Rent housing is looking for returns that are averaged over decades.

This appealing addition to people's current choices is well established globally and has attracted the support of major institutional investors and building managers.

In the UK Build-to-Rent housing is approximately 5 per cent of all private rental stock.

In the United States over 300,000 'multi-family' units are produced each year.

Australian companies invest in and manage Build-to-Rent communities in the US and UK.

This expertise is now being transferred into the Australian market where Australian companies have, and are, developing Build-to-Rent projects to see how they perform and what regulatory barriers would need to be removed to make the sector viable at a larger scale, as it is in northern hemisphere markets.

Whilst early **Australian projects should be regarded as astute pilot projects**, this choice of rental housing is primed for take-off in Australia with the right policy settings and government support.

Foreign institutional investors from North America and Europe are likely to be the initial investors in scale Build-to-Rent housing.

At a state level, settings that are helpful include land tax relief, local planning guides that recognise the asset class as different form of housing to typical apartments and planning approval pathways that recognise the 'shovel ready' nature of Build-to-Rent projects.

At the Federal level, non-resident investors who receive the 15 per cent tax rate for investing into commercial real estate and student accommodation are taxed at 30 per cent for Build-to-Rent housing unless the product is affordable housing.

This tax differential means these projects are not financially viable at meaningful scale and this global capital will be invested in markets other than Australia. Achieving national Managed Investment Trust **settings equivalent to commercial real estate and student accommodation will pave the way for this stable and attractive form of rental housing.**

As our cities continue to grow, it is essential we provide Australians with the best possible options for housing.

Build-to-Rent housing is a key ingredient in providing more choice for affordable properties and meeting the housing and saving needs of current and future generations with improved security of rental tenure.

3.7 Right-sizing for seniors will boost overall supply

The federal government's 2021 Integration Report[3] shows that **by 2061 the Australian population will reach 38.82 million people and 23% of us will be aged over 65 (8.9 million).**

The rapidly ageing Australian population highlights the challenge that confronts governments and the broader community in ensuring adequate supply of purpose-built and serviced, age-friendly housing.

A person downsizing into an aged friendly community creates direct benefits for themselves and for the broader community.

Not only does the move free up a much-needed, and generally underutilized, family home, there are cost-savings to Government as retirement living communities' better and more directly support healthy ageing of the elderly.

However, NSW is indicative of the challenge ahead. Modelling based on NSW's population increases to 2061 shows that the state will require an additional 72,000 independent living units (ILU) to be constructed over the next 40 years to meet demand. This number will not be met under current planning and zoning requirements.

The Property Council, through the Retirement Living Council, continues to advocate **age pension reform to enable and incentivize full-rate pensioners to 'right size' without significant financial penalty.**

We recommend the Government make a highly targeted adjustment to the age pension means test, exempting a certain amount of home sale proceeds accruing to age pensioners who:

- are homeowners;
- aged 75 or over;
- receive the full age pension; and
- purchase a cheaper home within 12 months (this aligns with the time Centrelink currently allows for sale proceeds from a family home not to be assessed). Note that a lower price is the best available proxy for downsizing.

The amount of money exempted from the means test under our proposal should be set at somewhere between $100 000 and $200 000 in total, to avoid inequity

(e.g. age pensioners who make many hundreds of thousands of dollars out of a sale may not need to retain the full pension.)

2021 Intergenerational Report. Australian Treasury. https://treasury.gov.au/sites/default/files/2021-06/p2021_182464.pdf
Modelling off the above figures at an estimated penetration rate of 6% percent an average occupancy of 1.3 persons per independent living unit (ILU).

Property Council Submission

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PROPERTY COUNCIL of Australia

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