LAND TAX ASSESSMENT AMENDMENT (BUILD-TO-RENT) BILL 2023

Second Reading

Resumed from 12 September.

DR D.J. HONEY (Cottesloe) [1.19 pm]: I note at the outset that we support the bill, although it has already been done by the Leader of the Opposition, who is the lead speaker on this bill. Given the breadth of comments made by members on the other side, I thought this was an opportunity to talk generally about the issue.

It would appear that this initiative will at least encourage people to build build-to-rent apartments. There is obviously a significant need in a community for more rental accommodation. I think rental availability is less than one per cent. There is clearly a crying need for it. I have children who rent and they find the availability of rental properties a very perilous situation. I might say that I hope that the outcome of this bill is that we see more significant high-rise rental properties built across the whole metropolitan area as opposed to what is happening at the moment. A disproportionate majority of high-rise buildings are being built in my electorate or in the electorates immediately adjacent to mine. It is basically high-end housing for wealthy people; it is not actually helping to provide the sorts of housing that we need across the whole metropolitan area. It is particularly not helping with the provision of affordable housing. I hope that the ultimate outcome of this bill is that we will see more affordable accommodation across the whole metropolitan area and not just a concentration on high-end apartments in the community that I live in and surrounding communities.

I noted some of the debate from other members. I might say that I thought the attempt from the member for Mount Lawley to goad me into commenting on what I can only call his jibes directed at me in this place was rather tawdry. However, I did think that he deserved some response. I am genuinely concerned. I have heard in a number of forums and in this place from the Minister for Planning, Minister for Housing and member for Mount Lawley about the fact that we need to somehow reduce building standards, approval processes and the involvement of communities because of this building crisis. I am extremely disturbed. I attended a conference of an environmental nature on the east coast a few weeks ago. I pretty much heard the same comments word for word, that to somehow solve this building problem we are going to have to just accept reduced standards and the bypassing of community consultation in what we do in their areas. I will certainly be keenly looking at that in this place and outside as well. I am really concerned that, from what I can see, this will only help people who are already making significant profits from building these apartments to make more money. It is not going to lead to any more housing; it is just going to improve profits. I believe the idea that developers will only develop when they can do whatever they want wherever they want is a profoundly flawed strategy that is to the detriment of our society and community.

What developers really need is clear standards. Constantly changing standards are a problem, but if there are clear standards, the developers will rapidly adjust to them. I have said in this place that I was very disappointed to see the Minister for Planning back down on the legislation that the government proposed to apply certain standards to building regulations. Developers need clear standards. Once they are clear, developers will adjust to them, build them into their plans and get on with it. They need certain approval paths. That does not mean that local communities will not be involved in approvals, but that there will be certainty for developers in what they have to go through and that it is time-bound and not never-ending.

The government and government agencies also need to provide their services in a timely manner. We have heard that it is now taking Western Power up to a year to connect new developments to the grid. That is adding substantial delay to properties coming into circulation. It is stopping those properties from being occupied by people and those developments going ahead in a timely manner. I think things to give developers certainty are laudable. However, I think to say that we should just reduce standards and abandon any effort to apply even the most basic amenities standards is wrong.

One of the things that I also want to see is proper choice. It has been put that more apartments offer more choice. That is appropriate, but it is rapidly becoming the case that the only choice, in particular for many young people, is apartments. They actually do not have a choice. In many cases, an apartment might be an appropriate choice for very young people who are not going to live there for a long period of time. Some people may choose to live there for their whole lives, but most people actually want to have a house, especially when they are having children. There are a lot of people in my area who want to move to an apartment when they retire because they do not want the effort that goes along with maintaining a house, yard and the like. However, we are unfortunately reaching the point at which people do not have a choice. I might say that in terms of apartments, they are not appreciating assets in many cases; they are depreciating assets. The basis of wealth for most young families is that they buy a house that then gradually improves in value over time. However, that is not the case for apartments and there are substantial costs that go with apartments.

I was talking to someone who has a small apartment in Perth. Their corporation fees are over $8 000 a year on top of all their other amenity fees. Those are very high costs. I hope that, on top of this, we will see that people have

real choice and opportunities outside of other apartments. I might also say, and I hope that this is something that the government takes on, that we need a much stronger focus on developing regional communities. One of the problems leading to a housing shortage in Perth is that so many people are staying in Perth, rather than going to the regions. In fact, there is a situation now with the fly-in fly-out culture that has developed in which we have tens of thousands of people working in regional communities, but their families are living in Perth. Many of these people would live in regional communities if suitable housing was available. As I said, I support this proposal from the government. The parliamentary secretary is here dealing with this legislation. I support this attempt to try to at least improve the supply of rental accommodation, but I think in terms of taking the pressure off Perth, there needs to be a really serious effort around developing not just small amounts of housing, but significant amounts of housing in regional communities.

I have probably said in this place, and certainly in other places, that today in Kalgoorlie, there are 3 000 jobs for people who have no formal qualifications. Most companies in Kalgoorlie would prefer that their workforce lived in Kalgoorlie, the reason being that they tend to stay in their jobs longer when they live in the community where they work. I think there has been an enormous missed opportunity to let people have the chance to live in those regional communities. There are a number of practical things that go along with that. We need much more land made available in the larger regional centres, but there also needs to be help for councils with headworks. The cost of headworks is a significant impediment to the development of new properties in those regional communities.

The other thing is that families need to feel safe in order to live in those communities. People will not live in those communities if they do not feel safe. They need to have access to first-rate health services as well as first-rate educational services. I appreciate that that is outside the scope of this particular bill, but I think there is an opportunity for the government to put much more focus on regional housing development as a way of overcoming the housing shortage. Otherwise, I commend the bill to the house.

DR J. KRISHNAN (Riverton — Parliamentary Secretary) [1.29 pm] — in reply: I would like to thank members for their contributions to the second reading debate on the Land Tax Assessment Amendment (Build-to-Rent) Bill 2023 and take the opportunity to respond to some of the issues raised. Before I go to my response, as I always do I would like to share my personal experience of looking for rental properties at various stages in my life. I was fortunate, growing up in my hometown, that my parents owned three different houses, so I could choose where I wanted to stay. But then when I moved from one state to another for my university education, I had to look for a rental; I was fortunate enough to find one that suited me.

Following graduation and getting married, I joined the corporate sector where housing was provided as part of my employment. I was given a five-bedroom house with five bathrooms. When my wife moved to the city to live with the kids, I was left alone in that large house by myself. Eventually, when I tried to move to the city with my wife, I again moved from that position to start looking for a rental.

When I moved to the UK I shared a two-bedroom apartment with five others. In one of the large bedrooms there were two bunk beds, where I had someone sleeping above me. Again, renting was difficult. After moving to Perth, the practice I joined was very nice, and I am grateful that we were provided with accommodation for the first three months after we arrived. We found a rental property but then the owner had to sell it, so we had to move to another rental property. Before we were told that we would have to move again, we decided that we would buy a house. We eventually ended up buying a house and thought, "No more renting!" But then the kids had to go to high school, so we moved closer to the city and ended up buying a practice. I could not afford to buy a second house, so it was back to a rental property again. We eventually bought a house and started living in it in 2013. However, my election campaign got really dirty because I did not live in Riverton. I had to again rent, in Riverton, to show that I was there with the community of Riverton.

That happened to me. There are constant changes in life circumstances that result in people looking for rental properties. I acknowledge that there is currently a strain on the availability of rental properties. That is why the Land Tax Assessment Amendment (Build-to-Rent) Bill 2023 is designed to encourage and promote investment in build-to-rent options. The eventual aim is to have more rental properties available for people to access when they need them.

I come now to my reply to members who contributed to the second reading debate. Firstly, I thank the Leader of the Opposition for his support for this bill. I can confirm that the government consulted with the Property Council and the Urban Development Institute of Australia. They both fully welcomed this land tax exemption legislation, which will provide significant financial support for developers in the emerging build-to-rent industry. The Leader of the Opposition asked about the financial impact of the exemption on the state. It is difficult to estimate the future cost of the exemption, simply because the build-to-rent industry is in its infancy in Perth, with very few projects currently under construction and long lead times for development. The estimated cost is likely to grow over time, with the cost of the exemption ultimately determined by the success of the industry. Although the effect on the state's land tax revenue is not expected to be significant, the exemption will provide significant support for each build-to-rent development.

The Leader of the Opposition also asked why the exemption is 50 per cent, and whether that will be sufficient to support investment in the sector. The 50 per cent rate is consistent with all other states that have introduced a build-to-rent exemption. The exemption applies to the reduced value of the land, rather than to the tax that applies based on the value of the land. The 50 per cent exemption on land value will result in a tax reduction of more than 50 per cent because of the progressive land tax scale. For example, a 50 per cent tax exemption on a $10 million property or piece of land will reduce the tax payable by 59 per cent. To give members an example, if the land value is $10 million, it is estimated that the tax exemption will be about $107 000 every year for the next 20 years, totalling a cost benefit of more than $20 million.

The Leader of the Opposition asked what other measures could be implemented to encourage developers to take up build-to-rent developments. The commonwealth government has already announced two tax incentives for build-to-rent developments. From 1 July 2024, the withholding tax rate on managed investment trusts will be reduced from 30 per cent to 15 per cent on income from newly constructed build-to-rent properties. This announcement came after the former state Treasurer wrote a letter to the federal Treasurer, along with the other state Treasurers, requesting consideration of this change. The capital works tax deduction rate will also increase from 2.5 per cent to four per cent for eligible new build-to-rent projects on which construction commences after 9 May 2023. This will effectively reduce the time taken to recover these costs to tax deductions from 40 years to 25 years. These two tax incentives are additional incentives put in by the commonwealth government to boost investment in the build-to-rent industry.

The Leader of the Opposition also commented on the number of builders undertaking build-to-rent developments in Western Australia. There are currently around seven new build-to-rent developments in Western Australia at various levels of planning and development, and three are currently operating. These projects are all located in the Perth metropolitan area and will provide in total around 2 000 dwellings, increasing the availability of rental properties. I understand that the Leader of the Opposition has also written to the Minister for Commerce about housing indemnity insurance and has received a response. I once again thank him for his support.

The member for Thornlie acknowledged that build-to-rent developments, which are supported by this new exemption, will increase the diversity of housing available. The member for Cockburn noted that we need more apartments in Western Australia, and this new exemption is a good solution for addressing that problem. As the member for Mount Lawley observed, the government committed to bringing forward legislation that will stimulate activity in the housing sector, and that has the financial capacity to reduce land tax for new build-to-rent developments. I thank the member for Bicton for noting that the bill will help people seeking affordable rental accommodation, as well as increasing the diversity of housing supply in Western Australia. The member for Southern River observed that the introduction of this build-to-rent land tax exemption will assist families in accessing a wider range of rental properties. The member for Joondalup observed that we cannot continue to develop only on the urban fringes. This bill will support the varied housing needs of a diverse population. I thank the member for Mirrabooka for acknowledging the specific criteria a development must meet to receive the exemption. These criteria will ensure that developments provide high-quality accommodation for tenants. Introducing the structured fit-for-purpose exemption will help increase both the density and diversity of housing in Western Australia.

I also thank the member for Bassendean for highlighting the requirement that dwellings in build-to-rent developments must be available for a three-year lease term. This requirement will help provide long-term security for tenants, providing the certainty of longer lease terms for tenants who desire it. The member for Bassendean also queried whether developers could defeat the three-year lease requirement by only renting to tenants who are prepared to accept a lesser period than the three years offered. RevenueWA conducts regular compliance activities to ensure that people who receive land tax exemptions continue to meet their eligibility criteria. It is expected that this will allow any concerns about build-to-rent exemptions to be monitored and responded to appropriately, where needed.

The member for Churchlands commented that encouraging greater density and infill across existing suburbs is beneficial for the environment and that the build-to-rent land tax exemption is another lever to limit urban sprawl. I think the member for Cottesloe touched upon overall developments, but I am thankful he is supporting land tax exemption for build-to-rent developments. Again, I thank all members for their contributions and support for the bill.

Finally, I make members aware that I will introduce an amendment to the bill during consideration in detail. After the bill was introduced, a small technical error was identified, with proposed section 39F(1)(c) inserted by clause 5. I will introduce an amendment in committee to correct this error and ensure the exemption achieves its policy goals.

Question put and passed.

Bill read a second time.

[Leave denied to proceed forthwith to third reading.]

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement —

Mr R.S. LOVE: I am a bit unclear, parliamentary secretary, because the clause states the commencement date of the act, or assent day, is 1 July 2023 or earlier or otherwise, so there is a bit of a range. However, proposed section 39F mentions provisions for build-to-rent developments completed by 12 May 2022. Can the parliamentary secretary give me an understanding of what happens to the land tax exemption for those projects commenced prior to the commencement date? Is there a retrospective claim for the land tax, or is it simply that they can receive the exemption post July 2023?

Dr J. KRISHNAN: The bill commences retrospectively from 1 July 2023, which means the land tax exemptions will apply from 1 July 2023. There might be some constructions that commenced prior to that, but they will only get benefits from 1 July 2023. No taxpayer will be disadvantaged by the retrospective commencement date.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 15B inserted —

Mr R.S. LOVE: Clause 4, proposed section 15B "Tax payable on land containing former exempt build-to-rent developments" is on page 3. Proposed section 15B(1)(b) reads —

> the land ceases to be eligible for an exemption under that Division in relation to the development, or becomes excluded land as defined in section 39E, for an assessment year that is within 15 financial years (the ***relevant financial years***) reckoned prospectively from and including the financial year in which the land first became exempt under that Division in relation to the development.

This requirement is for the property to remain eligible for 15 years, otherwise there is a clawback of the funding. Can the parliamentary secretary explain the thought processes behind deciding 15 years as the relevant length of time? It is a different period of time to the assessment itself, which is 20 years. Can the parliamentary secretary explain why it is 15 years and what consultations or other thoughts led to that decision?

Dr J. KRISHNAN: The period of 15 years is consistent with what has been done in the jurisdictions of other states in Australia. The clawback clause is there because we want people who are building for the purpose of renting to commit to a considerable period of time and not a short duration. There should not be access to the exemption, only to then exit out of the purpose for which it was built. That was the reason for the clawback clause. Does that answer the member's question?

Mr R.S. LOVE: That does answer my question in part. The parliamentary secretary indicated that other states have used 15 years, and the government wants a fairly lengthy period of time, but why is it 15 years? Why is a clawback on the exemption needed for a project that had been in place for, say, 14 years, and that in that 14 years offered exactly the product the government would like to see—that is, self-sufficient rental accommodation? When there has been no lack of performance on the part of the property owner or the property for 14 years, why would this legislation seek to claw that money back as though they had not offered the land for the fit purpose for that length of time?

Dr J. KRISHNAN: We want the investor, or the intention of the build-to-rent development, to make a minimum commitment of 15 years. We have to draw a line in the sand at some stage. As I said, we do not want build-to-rent developments for the purpose of getting the tax exemption, or taking shortcuts by removing the property from being available for rent. It defeats the purpose of implementing this policy. The investor or builder is expected to commit to that 15-year landmark right from day one if they want to apply for and get this exemption.

Mr R.S. LOVE: We turn to clause 4(3), which states —

> The amount of land tax payable for each of the relevant financial years is assessed, at the rate applicable for that year under the *Land Tax Act 2002*, as if the land were the only land of the owner on which land tax was payable for that year.

If the property is no longer considered eligible, why have a provision that has a clawback of tax on it that would be as if the land was the only land? Presumably, that would be at a lesser rate of tax than if it were the additional or final land that a person or owner held.

Dr J. KRISHNAN: Land tax is normally calculated on the aggregated value of all land held by the same owner, which means that more land tax will be payable when an owner holds multiple properties. Proposed section 15B calculates a retrospective land tax without aggregating land in this way. This might result in less land tax being payable than if the build-to-rent exemption had never applied, even if retrospective land tax becomes due. The retrospective tax is calculated this way because it would be administratively difficult to calculate it while aggregating the value of other land the owner held during the relevant period. It could even be inequitable if the land had changed ownership during this time.

Clause put and passed.

Clause 5: Part 3 Division 4B inserted —

Mr R.S. LOVE: Clause 5 inserts "Division 4B—Land used for build-to-rent developments". We are talking here about excluded land, which is land excluded from the area that can be part of the exemption. It reads —

> ***excluded land*** means land, other than land used for exempt development or a purpose solely related to exempt development, that is —
>
> (a) vacant land or land used for residential, commercial, professional, industrial or mixed development purposes …

I wonder whether the parliamentary secretary could give me an idea how that test will be applied. I would imagine some circumstances in which there might be a cafe or some such. Although technically open for the public, the cafe's customer base would be virtually solely for the residents of the development. I wonder whether the parliamentary secretary could explain the process of the decision. Who will undertake that process? Will it be the commissioner or the local government? How will this process be carried out?

Dr J. KRISHNAN: Excluded land will include land that is not accessible by build-to-rent tenants or commercial users, such as shops, cafes and gyms that are not solely for build-to-rent tenants. Land used for these purposes will not be eligible for the exemption. In a simple example, as the member said, if a cafe is located or co-located on a build-to-rent premises and is being run for commercial purposes, not exclusively for the build-to-rent tenants, it will not be eligible. The commissioner will make a determination about which part is eligible and which part is not eligible.

The ACTING SPEAKER (Ms M.M. Quirk): Member, do you want to move the amendment at this stage?

Dr J. KRISHNAN: Yes. I move —

> Page 5, lines 24 to 29 — To delete the lines and substitute —
>
> (c) it consists of —
>
> (i) the construction of a building or buildings on the land; or
>
> (ii) the substantial renovation of the whole or a substantial part of a building or buildings on the land that are not used for residential purposes (including aged care);
>
> and

Mr R.S. LOVE: Perhaps the parliamentary secretary can explain why this amendment is necessary because it is exactly the same wording. I think there are a couple of punctuation differences.

Dr J. KRISHNAN: Proposed section 39F(1)(c) of the bill provides that the build-to-rent development must be one or more buildings either constructed or substantially renovated for the purposes of build-to-rent accommodation. After the bill was introduced, it was identified that the structure of proposed subsection (1)(c) could be read as disqualifying a newly constructed building from receiving an exemption because it was built for residential use. The first part of proposed subsection (1)(c) provides that a development will meet the requirements for a build-to-rent development if it counts as the construction of a building or buildings on the land. The second part of proposed subsection (1)(c) continues in the same sentence and provides that a development will meet the requirements of the build-to-rent development if it consists of —

> … the substantial renovation of the whole or a substantial part of a building or buildings on the land, that are not used for residential purposes (including aged care) …

By including newly constructed buildings and renovated buildings in the same clause, it is not clear that the limitation on residential use is intended to apply only to existing buildings that have been substantially renovated. This conflicts with the policy intent to provide an exemption for newly constructed build-to-rent developments. The amendment proposes to insert a new section 39F(1)(c), which specifies that developments can consist of either —

> (i) the construction of a building or buildings on the land; or
>
> (ii) the substantial renovation of the whole or a substantial part of a building or buildings on the land that are not used for residential purposes (including aged care);

The replacement of section 39F(1)(c) clearly sets out that only substantially renovated existing buildings are subject to "not used for residential purposes" criteria.

Mr R.S. LOVE: I thank the parliamentary secretary for that explanation. I had marked down a question about why residential purposes were being excluded, so that explains quite well the need for the amendment.

Amendment put and passed.

Mr R.S. LOVE: Proposed section 39F, "Requirements for exemption relating to build-to-rent development", again goes to the question asked before about the commencement date of May 2022. Proposed section 39F(1)(d) reads —

> all of the dwellings become able to be lawfully occupied as dwellings on or after 12 May 2022 and before 1 July 2032 and within a 5-year period …

What does the inclusion of "and within a 5-year period" mean? Is that the length of time that they have to be still occupied? I wonder what the inclusion of that phrase achieves.

Debate interrupted, pursuant to standing orders.

[Continued on page 4552.]