



MASTER BUILDERS
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Suh Mian Ng
Help to Buy
Housing Finance Branch, Housing Division
Department of Treasury
Canberra ACT 2600
By email: housing@treasury.gov.au

Re: Response to Help to Buy Program Directions 2024

Dear Suh,

Master Builders Australia (Master Builders) welcomes the opportunity to respond to the 2024 Help to Buy Program Directions and we thank you and your colleagues for taking the time to meet with us earlier this month. As emphasised during our meeting, we firmly support to government's Help to Buy initiative and believe that it has a crucial role to play in delivering more of the new homes needed in Australia.

Having reviewed the Exposure Draft, we wish to propose some variations to allow the scheme to operate more effectively. There are also several areas where we would welcome more clarity. All of this relates to parts of Division 5, which cover contract, mortgage and timeframe requirements. Our focus in this area is seeking to address challenges experienced during the pandemic, where lack of flexibility in mortgage finance and fixed price housing contracts contributed to sector solvency challenges.

We acknowledge that Section 24(2) in Division 5 provides capacity for Housing Australia to adjust timeframes in response to circumstances of the case. In regard to section 22, requirements for mortgages and contracts, Master Builders proposes including contingency for qualified variations so all parties have the ability to deal more effectively with unforeseen circumstances. These are detailed in full over the pages that follow.

Should you have availability to discuss our position further that would be most appreciated.

Regards

Alex Waldren
National Director – Industry Policy
Master Builders Australia
24 May 2024



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Feedback from Master Builders Australia relating to section of Division 5

Section of legislation	Current Text	Changes proposed by Master Builders Australia	Comments from Master Builders Australia
22: Requirements relating to mortgages [(1)(b)(iii)]	(iii) the mortgage is a variable or fixed rate loan, or a combination of both (and not a line of credit);	(iii) the mortgage is a variable or fixed rate loan, or a combination of both (and not a line of credit), which includes an additional 10% contingency under the mortgage for qualified variations;	There needs to be a mechanism that requires mortgagees to incorporate a contingency (say 10%) within the approved mortgage value to allow for qualified variations under the new home contract (incl. those initiated and unforeseen by the contractor).
23: New home contract requirements (a)	(a) the contract is a fixed-price contract under which the purchase price does not exceed the price cap for the area in which the property is located;	(a)the contract is a fixed-price contract, that also provides for relevant contingencies for unforeseen and qualified variations, under which the purchase price does not exceed the price cap for the area in which the property is located;	We believe that a reference to mortgage contingencies for qualified variations would be prudent. We also welcome any clarification around how the price caps are established and assessed.
23: New home contract requirements(d)	(d) the contract is entered into on an arm's-length basis;		We believe that this requirement is ambiguous from a legal perspective and would give rise to disputes. Accordingly, it should either be clarified or removed

Section of legislation	Current Text	Changes proposed by Master Builders Australia	Comments from Master Builders Australia
24: Timeframe requirements (1)(a)(i)	(i) the construction of the dwelling must commence before the parties enter into the contract of sale		This requirement will be problematic as developments often require a threshold of sales (i.e. exchange of contracts) before they are able to commence the works. Could you clarify how this would apply in practice would be helpful.
24: Timeframe requirements (1)(a)(ii)	(ii) the settlement date must be no later than 90 days after the application to enter into the arrangement is approved;		Can you tell us how 'settlement date' is defined? This requirement appears ambiguous. Under most construction contracts, settlement ordinarily refers to the stage achieved once the date for practical completion has been reached, the works are completed and the parties are released of any ongoing obligations
24: Timeframe requirements (1)(b)(i)	(i) the construction of the dwelling must commence within 12 months of the day on which the applicant becomes the registered owner of the property to which the arrangement relates (the transfer date);		Would it be possible to get further clarity on what 'registered owner' means? If the home is being constructed under a mortgage, it is not clear that the title is vested in the mortgagor until the project has reached practical completion. This is something the government will need to get further advice on to ensure the drafting is right

Section of legislation	Current Text	Changes proposed by Master Builders Australia	Comments from Master Builders Australia
24: Timeframe requirements (1)(b)(i)	(ii) the construction must be completed within 24 months of the transfer date.		<p>We are uncomfortable with any restrictions around commencement/completion dates.</p> <p>This is because they became the source of major pressure during the pandemic given that they can blow out beyond the control of the parties to the building contract.</p> <p>We also acknowledge that 24(2) provides capacity for Housing Australia to adjust timeframes in responses to circumstances of the case.</p>

