

for Clerk of the Parliaments  
28 / 5 / 25

## HELP TO BUY (COMMONWEALTH POWERS) BILL 2025 STATEMENT OF PUBLIC INTEREST

### Need: Why is the policy needed based on factual evidence and stakeholder input?

- Under Help to Buy, the Commonwealth is seeking to improve housing outcomes for Australians by enabling Housing Australia to enter into shared equity arrangements, on behalf of the Commonwealth, with low and middle income individuals to assist them to purchase an existing or new residential property. The Commonwealth would contribute up to 40 per cent for new homes, or up to 30 per cent for existing homes, of the purchase price, in exchange for a proportional interest in the property.
- The Commonwealth has identified that the Commonwealth Parliament does not have a robust constitutional basis for Housing Australia to administer Help to Buy. Without surety of the constitutional basis, Housing Australia may not be able to effectively administer the shared equity arrangements where the Commonwealth has contributed to the purchase of a property. Equally, a share equity participant in Help to Buy would be uncertain as to the rights and obligations that would apply under the shared equity arrangement.
- NSW residents will also not be able to access Help to Buy without the NSW legislation enabling NSW agreeing to become a participating state in Help to Buy. The NSW Government will also need to agree to become a party to the Help to Buy Intergovernmental Agreement.

### Objectives: What is the policy's objective couched in terms of the public interest?

- The policy aims to provide the Commonwealth with a strong constitutional basis for Help to Buy as it seeks to support 40,000 participants across Australia. It is in the public interest to assist the Commonwealth through this Bill to facilitate support for home ownership in NSW.
- Under Help to Buy, eligible NSW residents will benefit from a smaller required deposit, lower mortgage repayments, and avoiding the cost of Lenders Mortgage Insurance.
- The Bill also proposes amendments to enable information to be disclosed to the Commonwealth about existing participants in a state shared equity scheme. This will ensure that anyone who is already benefiting from participating in another shared equity scheme (for example, the closed NSW Share Equity Scheme) would not be able to access Help to Buy.
- It is in the public interest that the support of Help to Buy be available to the broadest number of eligible households seeking to enter home ownership.

### Options: What alternative policies and mechanisms were considered in advance of the bill?

- The alternative option of not legislating Commonwealth provision for Help to Buy was a potential consideration.
- However, that alternative would leave NSW residents without access to Commonwealth support from Help to Buy which may have provided a pathway to home ownership.

- There is no other way for a NSW resident to participate in Help to Buy and live in NSW other than by legislating these Commonwealth powers.

### **Analysis: What were the pros/cons and benefits/costs of each option considered?**

#### *Legislating Commonwealth powers to be able to operate Help to Buy in NSW*

- Pros/benefits: The option to legislate Commonwealth powers would provide a strong constitutional basis for Housing Australia to administer Help to Buy in NSW. The Bill enables NSW to become a participating state in the Commonwealth Help to Buy and would help an estimated 12,000 NSW households enter home ownership. This estimate takes the 40,000 places to be available over four years applied to NSW's population share of Australia based on Australian Bureau of Statistics data. Participants in Help to Buy would be able to receive a Commonwealth contribution up to 40 per cent for new homes, or 30 per cent for existing homes, of the purchase price, in exchange for Commonwealth receiving a proportional interest in the property. Participants will not need to make any interest repayments on this Commonwealth contribution. Participants will only need a minimum 2 per cent deposit and will have lower ongoing mortgage repayments while they participate in Help to Buy, reducing the barriers to purchasing a home. Providing a strong constitutional basis is particularly important given the long-term financial commitments (often up to 30 years) that participants, lenders and the Commonwealth would be making. The Commonwealth Government is bearing the cost of supporting Australians and the administration of this program.
- Cons/costs: It is understood that participants would need to obtain a home loan from a financial institution that is a panel lender with the Commonwealth for Help to Buy. It is unknown which panel lenders will be available to prospective participants, however, a participant's preferred lender may not be on the panel thus reducing the choice of lender.

#### *Not legislating Commonwealth powers to be able to operate Help to Buy in NSW*

- Pros/benefits: The potential option to not legislate Commonwealth powers would mean that the Commonwealth would not have a robust constitutional basis for Housing Australia to administer Help to Buy in NSW. In this circumstance, the Commonwealth would not make Help to Buy available to NSW residents. To the extent that places that would otherwise be allocated to NSW are not taken up by residents of other states and territories, the Commonwealth Government would not bear the cost of providing those places. This option does not have any other discernible benefits.
- Cons/costs: The potential option to not legislate Commonwealth powers would mean that NSW residents would not be able to access Help to Buy and other states and territories would be able to potentially take-up the places that would otherwise be allocated to NSW. Those NSW residents who could have otherwise benefited from Help to Buy would find it more difficult to enter home ownership. A NSW resident would need to consider moving to a participating state or territory to avail themselves of that Commonwealth support and purchase a home inter-state. For many NSW residents it would be unlikely to be a practical option.

### **Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

- While the Commonwealth have not announced a start date, Help to Buy is expected to commence later in 2025, contingent on the Commonwealth finalising key operational elements, including Housing Australia's lending panel contracts and completion of participant administrative systems.
- Given Help to Buy's start date is yet to be confirmed, the Help to Buy (Commonwealth Powers) Bill 2025 will commence on a day to be proclaimed, instead of on assent.
- Commencement on a date of proclamation provides for flexibility so that NSW's adoption of the Commonwealth *Help to Buy Act 2024*, required referral of legislative powers to the Commonwealth and consequential amendments to relevant NSW taxation legislation can occur at a time consistent with when Help to Buy commences.
- The NSW Government will continue to work closely with the Commonwealth to support timely and effective Help to Buy implementation in NSW.

**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

- NSW Treasury has engaged with the Commonwealth Treasury during the development of the Commonwealth Help to Buy policy.
- Revenue NSW, as the administrator of state revenue and the NSW Shared Equity Scheme, has been consulted in the development of this policy.