

METHODOLOGY FOR DETERMINING RATES AND LAND TAX IN STRATA RESIDENCES

STANDING COMMITTEE ON PUBLIC ACCOUNTS

SEPTEMBER 2018

REPORT 4

COMMITTEE MEMBERSHIP

Vicki Dunne MLA	Chair
Michael Pettersson MLA	Deputy Chair
Alistair Coe MLA	
Bec Cody MLA	

SECRETARIAT

Dr Brian Lloyd	Secretary
Lydia Chung	Administrative Assistant

CONTACT INFORMATION

Telephone	02 6205 0137
Post	GPO Box 1020, CANBERRA ACT 2601
Email	committees@parliament.act.gov.au
Website	www.parliament.act.gov.au

Resolution of appointment

At its meeting of 13 December 2016 the Legislative Assembly resolved to create 'a Standing Committee on Public Accounts to:

(i) examine:

(A) the accounts of the receipts and expenditure of the Australian Capital Territory and its authorities; and

(B) all reports of the Auditor-General which have been presented to the Assembly;

(ii) report to the Assembly any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Assembly should be directed; and

(iii) inquire into any question in connection with the public accounts which is referred to it by the Assembly and to report to the Assembly on that question'.¹

TERMS OF REFERENCE

When the Assembly met on Thursday, 15 February 2018, Mr Alistair Coe MLA (Leader of the Opposition) presented two out-of-order petitions relating to the methodology for determining rates and land tax for strata residences.

The Assembly considered and passed the following resolution:

That the papers be referred to the Standing Committee on Public Accounts for inquiry and report by the last sitting day in May 2018.²

When the Assembly met on Thursday, 10 May 2018, the Assembly considered and passed the following motion by Mrs Vicki Dunne MLA, Chair of the Committee:

That the resolution of the Assembly of 15 February 2018 referring the papers relating to methodology for determining rates and land tax for strata residences to the Standing Committee on Public Accounts for inquiry and report be amended by omitting the words 'last sitting day in May 2018' and substituting 'last sitting day in September 2018'.³

¹ Legislative Assembly for the ACT, *Debates*, 13 December 2016, p.40, available at: <http://www.hansard.act.gov.au/hansard/2017/pdfs/20161213a.pdf>

² Legislative Assembly for the ACT, *Minutes of Proceedings*, 15 February 2018, p.673. The terms of the out-of-order petitions are provided at Appendix A of this report.

³ Legislative Assembly for the ACT, *Minutes of Proceedings*, 10 May 2018, p.829.

TABLE OF CONTENTS

Committee membership	i
Resolution of appointment.....	ii
Terms of reference	ii
RECOMMENDATIONS.....	VII
1 INTRODUCTION	1
Initiation of the inquiry	1
Conduct of the inquiry.....	1
Privileges inquiry.....	2
Structure of the report	3
2 CURRENT METHODOLOGY	5
Introduction.....	5
Instances where rates and land tax are payable	5
Current methodology for rates	6
Current methodology for land tax.....	9
‘Unit entitlement’	12
Committee comment	12
3 BACKGROUND TO METHODOLOGY.....	15
Introduction.....	15
Taxation reviews	15
Previous changes in methodology.....	18
Introduction of recent changes for unit titled properties	20
Previous methodology for unit titled properties.....	21
Committee comment	21
4 APPEARANCE BY TREASURER.....	23
Introduction.....	23
Rationale for the change in policy.....	23
Basis for assessment.....	24
Is the new system progressive?	25
Was a range of methodologies considered?	26
Was modelling done?	27

	Units and houses.....	28
	Units and units.....	30
	Consistency with policy on densification.....	31
	Cost of services for higher density dwellings.....	33
	Commercial rates.....	34
	Committee comment.....	37
5	IS THE METHODOLOGY FAIR?	41
	Introduction.....	41
	Former methodology.....	41
	New methodology.....	44
	Access to the progressive scale.....	51
	Anomalies between units and houses.....	59
	Anomalies between unit and unit.....	65
	Recent changes to highest and lowest marginal rates.....	68
	Capacity to pay.....	70
	Have land values increased?.....	77
	Objections to ‘retrospectivity’.....	78
	Committee comment.....	79
6	INCREASES TO RATES AND LAND TAX	81
	Introduction.....	81
	Increases in rates.....	81
	Broader consequences of increases in land tax.....	86
	Effect on rents.....	94
	Perceptions of legal restrictions on rent increases.....	103
	Effects on investment in residential property.....	104
	Committee comment.....	108
7	DOWNSIZING AND ‘EFFICIENCIES’	111
	Introduction.....	111
	Disadvantages for downsizers.....	111
	Savings and efficiencies.....	117
	Committee comment.....	125
8	MANDATE FOR REVISED METHODOLOGY	127
	Introduction.....	127
	Mandate.....	127

Rationale	130
Sources of funding for state-type services	137
Taxation review	139
Assessment based on unimproved or market value.....	141
Advice and consultation	147
Value for money and transparency	149
Changes to stamp duty	152
Stamp duty already paid.....	153
Committee comment	155
9 PROPOSALS FOR RESOLUTION	157
 Introduction.....	157
 Request for access to the progressive scale	157
 Alternative approaches	158
 Committee comment	164
10 COMMITTEE CONCLUSION	165
APPENDIX A TERMS OF OUT-OF-ORDER PETITIONS	167
APPENDIX B WITNESSES	169
APPENDIX C SUBMISSIONS	171
APPENDIX D RESOLUTION CREATING PRIVILEGES COMMITTEE.....	175

RECOMMENDATIONS

RECOMMENDATION 1

2.42 The Committee recommends that the ACT government propose to the Legislative Assembly amendments to Section 8 of the *Unit Titles Act 2001* which, if passed, would provide greater transparency on the definition of 'Unit Entitlement' and provide more specific guidance on the calculation of Unit Entitlement.

RECOMMENDATION 2

The Committee recommends that the ACT government devise a new method for determining rates and land tax for unit title properties.

RECOMMENDATION 3

6.158 The Committee recommends that the ACT government ensures that the ACT general public is aware of the effect of Section 68 of the *Residential Tenancies Act 1997* (ACT) in regulating increases of residential rents by including accurate and relevant information on the website of the ACT Revenue Office.

RECOMMENDATION 4

8.156 The Committee recommends that the ACT government, in a future review of the ACT methodology for determining rates and land tax, address and respond to perceived disparities between land values attributed to unit title and free-standing dwellings and used as the basis for the valuation based charge component of rates and land tax.

RECOMMENDATION 5

9.41 The Committee recommends that the ACT government propose to the Legislative Assembly changes to the regime for rates and land taxes which, if passed, would grant full access to progressive scales for rates and land tax to the owners of unit title properties.

RECOMMENDATION 6

10.7 The Committee recommends that the ACT government conduct a public review of the ACT system for rates and land tax, including and especially rates and land tax for unit title properties, to ensure fairness and consistency, and legislate accordingly.

1 INTRODUCTION

INITIATION OF THE INQUIRY

- 1.1 When the Legislative Assembly met on Thursday, 15 February 2018, Mr Coe MLA, Leader of the Opposition, presented two out-of-order petitions⁴ relating to the methodology for determining rates and land tax for strata residences.⁵
- 1.2 The Assembly passed the following resolution:

That the papers be referred to the Standing Committee on Public Accounts for inquiry and report by the last sitting day in May 2018.⁶
- 1.3 Subsequently, on 10 May 2018, the Chair of the Committee sought and was granted leave by the Assembly to move to amend the motion so that the Committee would report by 'the last sitting day in September 2018', and this motion was passed by the Assembly.⁷

CONDUCT OF THE INQUIRY

- 1.4 The Committee held four public hearings for the inquiry, on:
 - 13 June 2018;
 - 4 July 2018;
 - 11 July 2018; and
 - 8 August 2018.⁸

⁴ One petition, of 76 signatures, was considered out of order because the terms of the petition were not displayed on the pages on which signatures were applied. The other petition, of 5464 signatures, was considered out of order because: it was an electronic petition, but did not employ the Assembly's form for electronic petitions, and no original signatures were provided; and some signatures were from outside of the ACT. See Legislative Assembly for the ACT, 'Paper petitions', viewed 27 August 2018, available at: <https://epetitions.act.gov.au/PaperPetitions.aspx> and 'Welcome to the ACT Legislative Assembly e-Petitions website', viewed 27 August 2018, available at: <https://epetitions.act.gov.au/>

⁵ Legislative Assembly for the ACT, *Minutes of Proceedings*, 15 February 2018, p.673, viewed 29 May 2018, available at: https://www.parliament.act.gov.au/_data/assets/pdf_file/0009/1164906/MoP046F.pdf The terms of the out of order petitions are provided at Appendix A of this report, and are also available at: https://www.parliament.act.gov.au/_data/assets/pdf_file/0006/1165209/ToR-attachment.pdf

⁶ Legislative Assembly for the ACT, *Minutes of Proceedings*, 15 February 2018, p.673.

⁷ Legislative Assembly for the ACT, *Minutes of Proceedings*, No.58, 10 May 2018, p.829.

⁸ Witnesses to the inquiry are listed at Appendix B of this report. Transcripts are available from: <http://www.hansard.act.gov.au/hansard/2017/comms/default.htm#public>

1.5 The Committee called for submissions and received 99 submissions in total.⁹

PRIVILEGES INQUIRY

1.6 On 12 April 2018 the Assembly considered a motion put by a government Member of the Assembly which raised concerns at the fact that some submissions provided to the Committee for the inquiry had been submitted through a third-party website.¹⁰

1.7 This motion, having been put and passed on that day in amended form, established the Select Committee on Privileges 2018. The motion provided that the Standing Committee on Public Accounts could 'continue its business' in relation to the present inquiry, but 'should not report to the Assembly prior to the Select Committee on Privileges reporting to the Assembly'.¹¹

1.8 The Select Committee released its report, entitled *Newsletter circulated by two MLAs with links to a Third-Party Website*, on 20 June 2018. The report was tabled in the Assembly on 31 July 2018.¹²

1.9 In the report the Committee found:

- that no contempt had been committed by Ms Lee or Miss Burch,¹³ and
- that no contempt had been committed by Mr Coe.¹⁴

1.10 The Privileges Committee made one recommendation in the report, which was:

That the Standing Committee on Administration and Procedure, in consultation with the Committee of Chairs, develop guidelines for the use of third party websites in the preparation of submissions to Assembly inquiries.¹⁵

⁹ Submissions to the inquiry are listed at Appendix C of this report.

¹⁰ Legislative Assembly for the ACT, *Minutes of Proceedings*, 12 April 2018, pp.790-791, viewed 27 August 2018, available at: https://www.parliament.act.gov.au/_data/assets/pdf_file/0005/1188113/MoP055F2.pdf

¹¹ Legislative Assembly for the ACT, *Minutes of Proceedings*, 12 April 2018, p.791.

¹² Select Committee on Privileges 2018, *Newsletter circulated by two MLAs with links to a Third-Party Website*, viewed 27 August 2018, available at: https://www.parliament.act.gov.au/in-committees/select_committees/privileges-2018

¹³ Select Committee on Privileges 2018, *Newsletter circulated by two MLAs with links to a Third-Party Website*, p.12.

¹⁴ Select Committee on Privileges 2018, *Newsletter circulated by two MLAs with links to a Third-Party Website*, p.14.

¹⁵ Select Committee on Privileges 2018, *Newsletter circulated by two MLAs with links to a Third-Party Website*, p.16.

STRUCTURE OF THE REPORT

1.11 This report is structured as follows:

- The present chapter, Chapter 1, provides an introduction and background to the inquiry, describing the genesis and conduct of the inquiry, an associated privileges inquiry, and the structure of this report;
- Chapter 2 provides an account of the current methodology, set out in legislation, for the determination of rates and land tax in the ACT;
- Chapter 3 relevant taxation reviews and legislative changes which have led to the current rates and land tax regime in ACT;
- Chapter 4 provides an account of questions asked and answered when the Treasurer and his officers appeared before the Committee in public hearings of 8 August 2018;
- Chapter 5 provides an account of views put to the Committee by non-government witnesses and submitters concerning the fairness or otherwise the revised methodology for determining rates and land tax for strata residences in the ACT;
- Chapter 6 provides an account of view put to the Committee by non-government witnesses and submitters regarding increases to rates and land tax, and their impact, under the revised methodology;
- Chapter 7 provides an account of views put to the Committee by non-government witnesses and submitters regarding the effects of the revised methodology on ‘downsizers’ and questions of whether the revised methodology takes into account ‘savings and efficiencies’ which apply to unit title dwellings with respect to the provision of municipal services;
- Chapter 8 provides an account of views put to the Committee by non-government witnesses and submitters on the degree to which the ACT government had a ‘mandate’ to change the methodology for determining rates and land tax for strata residences in the ACT, and related matters;
- Chapter 9 provides an account of views put to the Committee by non-government witnesses and submitters regarding ways to resolve to the current situation, including the restoration of the previous approach, but proposals as to alternative approaches; and
- Chapter 10, ‘Committee conclusion’, provides a summation of the Committee’s reflections on the arguments and evidence considered in the body of the report.

1.12 Each chapter, except for the present chapter, provides a narrative which is the main content of the chapter, followed by *Committee comment* providing the views, findings and recommendations of the Committee regarding the material considered in the chapter.

2 CURRENT METHODOLOGY

INTRODUCTION

- 2.1 This chapter provides an account of the current methodology used to determine rates and land tax for strata residences in the ACT, and an account of changes to the methodology.
- 2.2 It provides accounts of:
- Instances where rates and land tax are payable in the ACT;
 - the current methodology for rates, including sub-sections on rates for free-standing and unit titled dwellings; and
 - the current methodology for land tax, including sub-sections on land tax for free-standing and unit titled dwellings.
- 2.3 These are considered below.

INSTANCES WHERE RATES AND LAND TAX ARE PAYABLE

- 2.4 The *Rates Act 2004* (ACT) provides, under Section 8(1)(a), that ‘rateable land’ means ‘all land in the ACT, including Commonwealth land’, but provides, under Section 8(1)(b), a list of exemptions. The effect of the two provisions together is that residential and commercial land is rateable land.¹⁶
- 2.5 The *Land Tax Act 2004* (ACT) provides, under Section 9(1), that ‘[l]and tax at the appropriate rate is imposed for a quarter on each parcel of rateable land that is residential land’ and, under Section 9(2), that ‘[h]owever, land tax is not imposed on a parcel of land that is exempt under section 10 or section 11’. Section 10(1)(a) provides for a ‘[p]rincipal place of residence exemption’ and other exemptions. The effect of the provisions together is that land tax is payable where a residential property is a rental property.
- 2.6 The effect of these two Acts together is that residential properties liable for land tax — that is, rental properties — are also liable for rates.

¹⁶ *Rates Act 2004* (ACT), s 8, viewed 28 August 2018, available at: <https://www.legislation.act.gov.au/View/a/2004-3/current/PDF/2004-3.PDF>

- 2.7 Rates are levied under the provisions of a Disallowable Instrument, currently the Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1).¹⁷ This provides the methodology to calculate rates for both residential and commercial land.¹⁸

CURRENT METHODOLOGY FOR RATES

- 2.8 Rates in the ACT comprise a fixed charge and a valuation-based charge to make up a total rates or land tax liability. The methodology for determining rates is set out in the *Rates Act 2004* (ACT), and the Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1).¹⁹

RATES OTHER THAN FOR UNIT TITLE PROPERTIES

- 2.9 The current methodology for general rates other than for unit title properties is set out in Section 14(2)(b) of the *Rates Act 2004* (ACT) in the formula:

$$FC + (AUV \times P)$$

- 2.10 Where:

AUV means—

(a) the average unimproved value of the parcel;

...

FC (or fixed charge) means the fixed charge determined under the Taxation Administration Act, section 139 for the parcel.

P means the percentage rate determined under the Taxation Administration Act, section 139 for the parcel.²⁰

¹⁷ Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1), Disallowable instrument DI2018–172, viewed 28 August 2018, available at: <https://www.legislation.act.gov.au/View/di/2018-172/current/PDF/2018-172.PDF>

¹⁸ A progressive scale for rates for residential land is provided at Table 1 of the Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1). A progressive scale for rates for commercial land is provided at Table 2 of the Determination.

¹⁹ Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1), Disallowable instrument DI2018–172, viewed 15 August 2018, available at: <https://www.legislation.act.gov.au/View/di/2018-172/current/PDF/2018-172.PDF>

²⁰ *Rates Act 2004* (ACT), s 3.

RATES FOR UNIT TITLE PROPERTIES

2.11 Section 28(1) of the *Rates Act 2004* provides that:

For this Act, if a parcel of land is a unit subdivision, the land making up the parcel is taken to continue to be a single parcel of land.²¹

2.12 Section 29 of the *Rates Act 2004* provides different methodologies to determine rates for according to circumstances.

2.13 Section 29(4)(b) provides that 'for a residential unit',²² the following formula applies:

$$FC + \left(AUVRUP \times \frac{UE}{TUER} \right)$$

2.14 Where:

'AUV means the average unimproved value of the parcel';

'AUVRU means the AUV of the parcel proportionate to the number of residential units in the parcel, worked out as follows':

$$AUV \times \frac{TUER}{TUE}$$

'AUVRUP means the AUVRU adjusted by the applicable percentage rate, worked out as follows':

$$AUVRU \times P$$

'AUVU means the AUV of the parcel proportionate to the unit in the parcel, worked out as follows':

$$AUV \times \frac{UE}{TUE}$$

'FC', defined in Section 14 (3) as 'the fixed charge determined under the *Taxation Administration Act*, section 139 for the parcel';

'P', defined in Section 14 (3) as 'the percentage rate determined under the *Taxation Administration Act*, section 139 for the parcel';

'residential unit means a unit that is residential land';

'TUE means the total unit entitlement of all the units in the units plan';

'TUER means the total unit entitlement of all the residential units in the units plan'; and

'UE means the unit entitlement of the unit'.²³

²¹ *Rates Act 2004* (ACT), s 28(1).

²² *Rates Act 2004*, s 29(4)(b).

²³ *Rates Act 2004*, R33, Effective: 01/07/18, s 29(5).

TAXATION ADMINISTRATION (AMOUNTS PAYABLE—RATES) DETERMINATION 2018 (No 1)

- 2.15 The Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1), provides that the fixed charge component for residential rates is at present \$815 per year.²⁴
- 2.16 Both general rates and land tax are calculated using what are often referred to as ‘marginal rating factors’.²⁵ This means that different percentage rates are applied, for residential rates for example, for the first \$0 to \$150,000 of a property’s value; then another that part of the property’s value between \$150,000 to \$300,000; value from \$300,000 to \$450,000; value from \$450,000 to \$600,000; and any value in excess of \$600,000.²⁶
- 2.17 Current marginal rates are set out in Table 1 of the Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1) as follows.²⁷

column 1 base value	column 2 P or percentage rate per year
less than or equal to \$150 000	0.3130% of the base value
more than \$150 000 but not more than \$300 000	\$469.50 plus 0.4088% of the part of the base value that is more than \$150 000
more than \$300 000 but not more than \$450 000	\$1 082.70 plus 0.5130% of the part of the base value that is more than \$300 000
more than \$450 000 but not more than \$600 000	\$1 852.20 plus 0.5603% of the part of the base value that is more than \$450 000
more than \$600 000	\$2 692.65 plus 0.5700% of the part of the base value that is more than \$600 000

²⁴ Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1), s 5(1)(a)(i).

²⁵ See for example references to ‘marginal rating factors’ in *Proof Transcript of Evidence*, 8 August 2018, p.60.

²⁶ 2017-18 Budget Paper No.3, p.226.

²⁷ Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1), Table 1.

CURRENT METHODOLOGY FOR LAND TAX

- 2.18 A similar approach for the methodology for land tax, with different ranges and thresholds, and different marginal rates, is set out *Land Tax Act 2004* and the Taxation Administration (Amounts Payable—Land Tax) Determination 2018 (No 1).²⁸

LAND TAX FOR FREE-STANDING PROPERTIES

- 2.19 Under Section 9 of the *Land Tax Act 2004*, land tax for all properties not subject to Section 27 of the Act — that is, which are not unit titled properties — is to be calculated using the following formula:

$$FC + (AUV \times P)$$

- 2.20 Where:

AUV means the average unimproved value of the parcel of land under the *Rates Act 2004*.

FC means the fixed charge determined under the *Taxation Administration Act*, section 139 for the parcel of land.

P means the percentage rate determined under the *Taxation Administration Act*, section 139 for the parcel of land.²⁹

LAND TAX FOR UNIT TITLED PROPERTIES

- 2.21 Section 27 of the *Land Tax Act 2004* provides methodologies determining land tax for units in two scenarios.
- 2.22 The first, provided for by Section 27(4), are scenarios in which ‘a unit that is part of a unit subdivision’ is ‘owned by someone other than a corporation or trustee’, ‘contains multiple dwellings’,³⁰ and ‘has at least 1 of the dwellings in the unit occupied’:

(i) ‘as the principal place of residence by 1 or more owners of the unit, including an owner who is a personal representative of a deceased person’;
or

²⁸ Taxation Administration (Amounts Payable—Land Tax) Determination 2018 (No 1), Disallowable instrument DI2018–179, s 6, Table 1, viewed 15 August 2018, available at: <https://www.legislation.act.gov.au/View/di/2018-179/current/PDF/2018-179.PDF>

²⁹ *Land Tax Act 2004*, s 9(4).

³⁰ *Land Tax Act 2004*, ss 27(4)(a)-(b).

(ii) as the principal place of residence by a person having a life or term interest in the unit under a will; or

(iii) by a person who pays no rent for the unit, or is liable only to pay an amount that is not more than the total amount required for rates, repairs, maintenance and insurance in relation to the unit;

2.23 And:

(d) 'has at least 1 of the dwellings rented by a tenant'.

2.24 In such a case, the methodology for determining land tax is expressed in the formula:

$$\left(FC \times \frac{FA}{TFA}\right) + (AUVRUP \times \frac{UE}{TUER} \times \frac{FA}{TFA})$$

2.25 Where:

AI means the value of all interests in the unit.

AUV—see section 9 (4).

AUVRU means the AUV of the parcel proportionate to the number of residential units in the parcel, worked out as follows:

$$AUV \times \frac{TUER}{TUE}$$

AUVRUP means the AUVRU adjusted by the applicable percentage rate, worked out as follows:

$$AUVRU \times P$$

C&TI means the value of all interests in the unit held by corporations and trustees.

dwelling—see the Planning and Development Regulation 2008, section 5.

FA means the floor area of the dwelling that is rented.

FC—see section 9 (4).

P—see section 9 (4).

residential unit means a unit that is residential land.³¹

2.26 Section 27(5) provides another formula for cases where the 'unit that is part of a unit subdivision' is 'owned by either a corporation or a trustee' and 'another person who is exempt from paying land tax for the parcel'.³²

³¹ *Land Tax Act 2004*, s 27(7).

³² *Land Tax Act 2004*, s 27(5).

2.27 Section 27(6) provides a further formula for cases where neither of the above conditions applies.³³

TAXATION ADMINISTRATION (AMOUNTS PAYABLE—LAND TAX) DETERMINATION 2018 (No 1)

2.28 The Taxation Administration (Amounts Payable—Land Tax) Determination 2018 (No 1) provides for a fixed charge and a progressive scale of valuation based charges, in a similar way to that provided for rates by the Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1), considered above.³⁴

2.29 Section 6 of the Determination provides that the fixed charge (FC) is \$1,203.00.

2.30 A progressive scale is provided in Table 1 of the Determination³⁵ as follows:

Column 1 base value	Column 2 P or percentage rate
less than or equal to \$150 000	0.50% of the base value
more than \$150 000 but not more than \$275 000	\$750 plus 0.60% of the part of the base value that is more than \$150 000
more than \$275 000 but not more than \$2 000 000	\$1 500 plus 1.08% of the part of the base value that is more than \$275 000
more than \$2 000 000	\$20 130 plus 1.10% of the part of the base value that is more than \$2 000 000

³³ *Land Tax Act 2004*, s 27(6).

³⁴ Taxation Administration (Amounts Payable—Land Tax) Determination 2018 (No 1), Disallowable instrument DI2018–179, viewed 28 August 2018, available at: <https://www.legislation.act.gov.au/View/di/2018-179/current/PDF/2018-179.PDF>

³⁵ Taxation Administration (Amounts Payable—Land Tax) Determination 2018 (No 1), Table 1.

'UNIT ENTITLEMENT'

- 2.31 A Dictionary in an Act provides definitions of key terms used in the Act.
- 2.32 The entry for 'unit entitlement' in the Dictionary of the *Rates Act 2004* refers to Section 8 of the *Unit Titles Act 2001*.³⁶
- 2.33 Section 8, 'Unit entitlement', of the *Unit Titles Act 2001* (ACT) provides that:
- (1) The schedule of unit entitlement forming part of a units plan is a schedule indicating (by numbers assigned to each unit) the improved value of each unit relative to each other unit (the unit's unit entitlement).
 - (2) For this Act, the total unit entitlement under a schedule of unit entitlement must be 10, 100, 1 000, 10 000 or 100 000.³⁷

COMMITTEE COMMENT

- 2.34 The Committee notes the complexity of the methodologies employed to determine rates and land tax in the ACT.
- 2.35 The most notable features of the current systems for rates and land tax, as they apply to unit titled properties, are the provisions — in both cases — which make the value of the whole parcel of land on which units are located the basis for assessing the valuation based charges for rates and land tax for an individual unit.
- 2.36 The Committee notes that many of the contributions which are considered in the following chapters express a strong view against this element of the current system.
- 2.37 The Committee also notes that in spite of the high quality of contributions to the inquiry, some contributors struggle to understand with elements of the current legislative framework.
- 2.38 In particular, the Committee wishes to indicate, in this regard, the use and definition of the term 'Unit Entitlement'. Regarding this, the Committee takes the view that the legislative definition of Unit Entitlement, and the guidance provided in legislation for calculating such a variable, are unclear. This is of concern to the Committee in view of the fact that Unit

³⁶ *Rates Act 2004*, Dictionary, viewed 27 August 2018, available at: <https://www.legislation.act.gov.au/View/a/2004-3/current/PDF/2004-3.PDF>

³⁷ *Unit Titles Act 2001*, s 8, viewed 27 August 2018, available at: <https://www.legislation.act.gov.au/View/a/2001-16/current/PDF/2001-16.PDF>

Entitlement is an important element in determining rates and land tax liabilities for properties.

- 2.39 This is the fact that the determination of ‘unit entitlement’, as set out in Section 8 of the *Unit Titles Act 2001* (ACT), relies on ‘improved value’. An inspection of the Amendment history of the Act shows that this was not an amendment, but has been part of the Act since it came into force in 2001.
- 2.40 The Committee considers that provisions setting out unit entitlement — Sections 7 and 8 in the *Unit Titles Act 2001* — are ambiguous. In view of the fact that unit entitlement is a significant factor in determining liabilities for rates and land tax these should, in the Committee’s view, be clarified.
- 2.41 In light of this, the Committee makes the following recommendation.

Recommendation 1

- 2.42 The Committee recommends that the ACT government propose to the Legislative Assembly amendments to Section 8 of the *Unit Titles Act 2001* which, if passed, would provide greater transparency on the definition of ‘Unit Entitlement’ and provide more specific guidance on the calculation of Unit Entitlement.**

3 BACKGROUND TO METHODOLOGY

INTRODUCTION

- 3.1 This chapter provides an account of the genesis of changes to the methodology for rates and land tax which have led to the current system.
- 3.2 It considers:
- taxation reviews in the Commonwealth (the ‘Henry review’) and the ACT (‘the Quinlan review’)
 - changes in the methodology for rates and land tax which were initiated in the 2012-13 ACT Budget;
 - changes in the methodology for rates and land tax of unit titled properties which were brought into effect in 2017; and
 - the methodology employed for rates and land tax for unit titled properties prior to these changes.

TAXATION REVIEWS

INTRODUCTION

- 3.3 Previous reviews of taxation systems, both in the Commonwealth and the ACT, form part of the context for current arrangements for rates and land tax in the ACT.
- 3.4 These, the ‘Henry review’ in the Commonwealth and the ‘Quinlan review’ in the ACT, are considered below.

HENRY REVIEW

- 3.5 In 2010 the Commonwealth government released the ‘Henry review’ on the Australian taxation system.³⁸

³⁸ K Henry, J Harmer, J Piggott, H Ridout and G Smith, 2010, *Australia’s future tax system: Report to the Treasurer December 2009*, viewed 25 May 2018, available at:
http://www.taxreview.treasury.gov.au/content/downloads/final_report_part_1/00_AFTS_final_report_consolidated.pdf

3.6 The review stated that:

Australia has too many taxes and too many complicated ways of delivering multiple policy objectives through the tax and transfer systems. The capacity of the legislative and operating platforms of these systems, and their human users, to deal with the resulting complexity has been overreached. The tax and transfer architecture is overburdened and beginning to fail in dealing efficiently and effectively with multiplying policy goals and demands. Rationalisation of the tax and transfer architecture should now be a strategic priority.³⁹

3.7 It also put the view that:

Revenue raising should be concentrated on four robust and efficient tax bases:

- personal income, assessed on a more comprehensive base;
- business income, with more growth-oriented rates and base;
- private consumption, through broad, simple taxes; and
- economic rents from natural resources and land, on comprehensive bases, noting that revenue from rent taxes will likely be more volatile than from the existing resource royalties it will replace.⁴⁰

3.8 In particular, the review put the view that:

In time the following taxes should be abolished and their revenues replaced by taxes applying to the four robust and efficient tax bases:

- insurance taxes;
- payroll tax;
- property transfer taxes;
- stamp duties on the purchase of motor vehicles;
- resource royalties, replaced by the rent tax;
- luxury car tax; – the tax on superannuation contributions in the fund;
- income taxes on all government pensions, allowances and benefits; and
- fuel and vehicle registration taxes, if replaced by more efficient road user charges.⁴¹

³⁹ Henry at al., 2010, *Australia's future tax system*, p.xvii.

⁴⁰ Henry at al., 2010, *Australia's future tax system*, p.xvii.

⁴¹ Henry at al., 2010, *Australia's future tax system*, p.xviii.

3.9 In relation to 'property transfer taxes', the report put the view that:

Conveyance stamp duty is highly inefficient and inequitable. It discourages transactions of commercial and residential property and, through this, its allocation to its most valuable use. Conveyance stamp duty can also discourage people from changing their place of residence as their personal circumstances change or discourage people from making lifestyle changes that involve a change in residence. It is also inequitable, as people who need to move more frequently bear more tax, irrespective of their income or wealth.⁴²

3.10 Regarding land tax, the report put the view that:

A land tax is efficient if it is broadly based. Existing land taxes are quite inefficient because they are not broadly based, and rates vary according to land use and landholding aggregation rules. An efficient land tax would apply equally to all land uses and aggregate holdings, but could have a threshold and different rates based on the value per square metre of land. In practice this could mean that most land in lower-value use (including most agricultural land) would not face a land tax liability and the tax would apply moderate rates to most other land. Transitional rules will be critical in changing the basis of land taxes, to smooth valuation effects and to allow ample time for those affected to make adjustments to their investments in land.⁴³

QUINLAN REVIEW

3.11 In 2012 the ACT government also conducted a taxation review. The review was conducted by Mr Ted Quinlan, a former Member of the Assembly and a former Treasurer of the ACT.⁴⁴

3.12 The report of the ACT review put the view that:

Four key taxes raise the majority of revenue in the ACT: payroll tax, conveyance duty, general rates and land tax. Other taxes and levies also play an important role in the provision of government services to the Canberra community. Land-based revenue is the predominant tax base in the ACT.⁴⁵

⁴² Henry et al., 2010, *Australia's future tax system*, p.49.

⁴³ Henry et al., 2010, *Australia's future tax system*, p.xxi.

⁴⁴ ACT government, 2012, *ACT Taxation Review, May 2012*, viewed 25 May 2018, available at: <http://www.treasury.act.gov.au/documents/ACT%20Taxation%20Review/ACT%20Taxation%20Review%20May%202012.pdf>

⁴⁵ ACT government, 2012, *ACT Taxation Review*, p.2.

3.13 The report put the view that:

The Territory Government is responsible for functions delivered in other jurisdictions by both State and local Governments. While funding and delivering municipal services, it also collects general rates. This broader tax base, not readily available to other jurisdictions, puts the ACT in a unique position to pursue reform *through substitution of transaction taxes with land-based taxes*.⁴⁶ [emphasis added].

3.14 It also stated that:

The AFTS [Australia's Future Tax System] considered taxes on transactions, insurance and payroll to be inefficient and distortionary and proposed that these be abolished.⁴⁷

3.15 Elsewhere the report stated that conveyance duty (that is, 'stamp duty') rated 'poorly against the criteria' used by the review, in that, the report stated:

- it was 'an inefficient tax that distorts consumer behaviour and exercise of housing preferences, leading to misallocation of resources in the economy';
- it 'could be viewed as inequitable, as the tax burden is carried by a small number of people transacting, and it only applies to those who purchase real property'; and
- it was 'volatile and unpredictable'.⁴⁸

PREVIOUS CHANGES IN METHODOLOGY

3.16 The ACT government introduced changes to the methodology for determining rates and land tax in the 2012-2013 ACT Budget.⁴⁹

3.17 Tax reform and changes to rates and land tax are indicated in Budget Papers for each financial year from and including 2012-13.⁵⁰

3.18 In introducing the Appropriation Bill 2012-2013 to the Assembly, the Treasurer told the Assembly, regarding stamp duty, that:

We are starting a long-term plan to abolish stamp duty on conveyancing.

⁴⁶ ACT government, 2012, *ACT Taxation Review*, p.2.

⁴⁷ ACT government, 2012, *ACT Taxation Review*, p.3.

⁴⁸ ACT government, 2012, *ACT Taxation Review*, p.73.

⁴⁹ Legislative Assembly for the ACT, *Minutes of Proceedings*, No.151, 5 June 2012, pp.1994-1995.

⁵⁰ See: '2012-13 Taxation Reform', *2012-13 Budget Paper No.3*, p.45-53; 'Taxation Reform', *2013-14 Budget Paper No. 3*, pp.95-99; 'Taxation Reform', *2014-15 Budget Paper No. 3*, pp.247-250 and '2014-15 Tax Reform Measures', pp.250-251; 'Taxation Reform', *2015-16 Budget Paper No. 3*, pp.219-221; 'Taxation Reform', *2016-17 Budget Paper No. 3*, pp.249-258; and 'Taxation reform', *2017-18 Budget Paper No.3*, p.23 and pp.225-228.

Over the next five years the Government will reduce the amount of stamp duty paid on all homes—beginning tomorrow.⁵¹

3.19 Regarding land tax, the Treasurer told the Assembly that:

To put downward pressure on rents and encourage investment in the kinds of housing which are in the shortest supply, I announce today a cut in the land tax paid by landlords who rent out low- and medium-priced properties.

...

Based on averages, a rental property in Chisholm will see a reduction of \$307 in land tax a year – good news for renters and good news for investors.⁵²

3.20 Regarding general rates, the Treasurer told the Assembly that:

Canberrans understand that tax changes like the ones I have announced need to be paid for.

The overall aim is not to reduce the money the Government invests in services for Canberrans, but to move away from inefficient and regressive taxes and focus on fairer, progressive revenue sources.

That is why today I announce important changes to the general rates regime.⁵³

3.21 He told the Assembly that these changes would ‘not alter the fundamental premise on which rates have always been collected – linking rates charged to the value of land’, and that these changes would ‘make the system more progressive’.⁵⁴

3.22 He told the Assembly:

We will be introducing a series of progressive marginal tax rates to replace the existing flat valuation based charge. The fixed charge paid by all Canberra households will remain the same at \$555.⁵⁵

3.23 He also told the Assembly that:

Under the new scale, rates will decrease for around a quarter of properties. The average increase will be \$123 per year or \$2.35 a week. This will be offset by the reductions in insurance costs, stamp duty and rents I outlined earlier.⁵⁶

⁵¹ Mr Andrew Barr MLA, Legislative Assembly for the ACT, *Debates*, 5 June 2012, p.2615.

⁵² Mr Andrew Barr MLA, Legislative Assembly for the ACT, *Debates*, 5 June 2012, p.2616.

⁵³ Mr Andrew Barr MLA, Legislative Assembly for the ACT, *Debates*, 5 June 2012, p.2617.

⁵⁴ Mr Andrew Barr MLA, Legislative Assembly for the ACT, *Debates*, 5 June 2012, p.2617.

⁵⁵ Mr Andrew Barr MLA, Legislative Assembly for the ACT, *Debates*, 5 June 2012, p.2617.

⁵⁶ Mr Andrew Barr MLA, Legislative Assembly for the ACT, *Debates*, 5 June 2012, p.2617.

INTRODUCTION OF RECENT CHANGES FOR UNIT TITLED PROPERTIES

3.24 On 23 March 2017 the Treasurer presented the Revenue Legislation Amendment Bill 2017 to the Assembly.⁵⁷

3.25 The Assembly passed the Bill on 11 May 2017.⁵⁸ The Act was notified on 16 May 2017,⁵⁹ and came into force on 1 July 2017.⁶⁰

3.26 The *Explanatory Statement* for the Bill stated that:

The current method for calculating rates and land tax on a residential unit in the ACT has resulted in lower rates and land tax payable for units as compared with the rates and land tax payable for houses of similar market value.

In the 2016-17 Budget, the ACT Government announced a change to the methodology for calculating rates and land tax on units in order to reduce the gap between houses and residential units of similar value. To do this the total average unimproved value (AUV) of the parcel of land will be used as a basis for the rates and land tax calculation, instead of the AUV of the parcel as it relates to the individual unit entitlement.

The amendments to the Land Tax Act and the Rates Act in this Bill implement this change in methodology.⁶¹

3.27 The Revenue Legislation Amendment Bill 2017, once passed by the Assembly and enacted, amended the *Rates Act 2004* and the *Land Tax Act 2004* to put these new arrangements into effect. This resulted in a change in the statutory formula for calculating the valuation-based component of the rates and land tax liabilities for unit titled properties.

3.28 As for the *Rates Act 2004*, the *Land Tax Act 2004* was amended by the Revenue Legislation Amendment Bill 2017 to provide, at Section 26(1) that:

⁵⁷ Minutes of Proceedings, 23 March 2017, pp.121-122, viewed 15 August 2018, available at: https://www.parliament.act.gov.au/_data/assets/pdf_file/0005/1044554/MoP010F.pdf

⁵⁸ Minutes of Proceedings, 11 May 2017, p.190, viewed 15 August 2018, available at: https://www.parliament.act.gov.au/_data/assets/pdf_file/0004/1061176/MoP016F1.pdf

⁵⁹ ACT Legislation Register, 'Bill progress', Revenue Legislation Amendment Bill 2017, viewed 15 August 2018, available at: http://www.legislation.act.gov.au/b/db_55651/

⁶⁰ See Revenue Legislation Amendment Bill 2017, Section 2, 'Commencement', viewed 15 August 2018, available at: https://www.legislation.act.gov.au/View/b/db_55651/20170323-65740/PDF/db_55651.PDF

⁶¹ *Explanatory Statement*, Revenue Legislation Amendment Bill 2017, viewed 15 August 2018, available from: http://www.legislation.act.gov.au/es/db_55634/20170323-65723/pdf/db_55634.pdf

For this Act, if a parcel of land is a unit subdivision, the land making up the parcel is taken to continue to be a single parcel of land.⁶²

- 3.29 Sub-sections of Section 27 of the Act provides a number of formulae for different circumstances where owners of unit titled properties are liable for tax, predicated on the principle set out in Section 26(1) that ‘the land making up the parcel is taken to continue to be a single parcel of land’.⁶³

PREVIOUS METHODOLOGY FOR UNIT TITLED PROPERTIES

- 3.30 A previous version of the *Rates Act 2004*, effective until 31 August 2016, provided that:

Rates are imposed on a unit that is part of a unit subdivision as if a reference to a parcel of land were a reference to the unit.⁶⁴

- 3.31 In that previous version of the Act, the relevant formula⁶⁵ for calculating for unit titled residential properties was:

$$\frac{UE}{TUE} \times AUV$$

- 3.32 Where:

- ‘AUV’ referred to ‘the average unimproved value of the parcel’;
- ‘TUE’ referred to ‘the unit entitlement of all the units in the unit plan’; and
- ‘UE’ referred to ‘the unit entitlement of the unit’.⁶⁶

COMMITTEE COMMENT

- 3.33 The history of the development of the current rates and land tax system is, in the Committee’s view, important in the sense that it provides both a basis of comparison

⁶² *Land Tax Act 2004*, R25, Effective: 01/07/18, Section 26(1), viewed 15 August 2018, available at: <https://www.legislation.act.gov.au/View/a/2004-4/current/PDF/2004-4.PDF>

⁶³ *Land Tax Act 2004*, R25, Effective: 01/07/18

⁶⁴ *Rates Act 2004*, R28, Effective 18/08/16-31/08/16, Section 29(4), viewed 15 August 2018, available at: <https://www.legislation.act.gov.au/View/a/2004-3/20160818-64509/PDF/2004-3.PDF>

⁶⁵ *Rates Act 2004*, R28, Effective 18/08/16-31/08/16, Section 29(5).

⁶⁶ *Rates Act 2004*, R28, Effective 18/08/16-31/08/16, Section 29(6). See also *Unit Titles Act 2011*, Section 8.

against which the current system can be judged, and a test for claims that certain elements of the current system come from previous taxation reviews.

- 3.34 In particular, it has been claimed that controversial elements of the current rates and land tax system — in particular the move to assess the value of unit title dwellings on the basis of the value of the whole parcel of land on which they are situated — are consistent with the findings and recommendations of the Quinlan review.
- 3.35 Further into the body of this report the lead author of that review, Mr Ted Quinlan, rejects this view. He also states that his review affirmed the centrality of Unimproved Value as the basis for determining rates and land tax liabilities.
- 3.36 The concept of Unit Entitlement, as currently employed, detracts from this principle by calculating the portion, for an individual unit, of the aggregate value of a whole unit title parcel of land based on calculations of the units' portion of the aggregate *improved* value of the whole parcel of land.
- 3.37 As will be plain from statements made further into the body of the report, this is one of the factors which suggest that although the Quinlan review affirmed the centrality of unimproved value as a basis for determining rates and land tax, the current methodology in the ACT is, in fact, a hybrid system which either employs or appeals to the improved value of properties.
- 3.38 Using concepts of improved value in this way could discourage improvements on properties, which cannot be construed as beneficial for the ACT economy, or for the welfare and quiet enjoyment of its residents.

4 APPEARANCE BY TREASURER

INTRODUCTION

- 4.1 The Treasurer and his officers appeared before the Committee in public hearings of 8 August 2018 in connection with the inquiry.
- 4.2 Discussed were:
- the rationale for the change in policy on rates and land tax;
 - the basis for assessment of rates and land tax;
 - whether the new system was progressive;
 - whether modelling was done and a range of approaches considered;
 - differentiation between units and houses;
 - the degree to which the policy was consistent with other government policies; and
 - commercial rates.
- 4.3 These are considered below.

RATIONALE FOR THE CHANGE IN POLICY

- 4.4 When the Treasurer appeared before the Committee, questions were asked and answered regarding the rationale for the change in policy on rates and land tax.
- 4.5 In responding to questions, the Treasurer told the Committee that:
- The rationale for the legislation is contained within the Revenue Legislation Amendment Bill 2017, and the parliamentary debate and explanatory statement associated with it.⁶⁷
- 4.6 He told the Committee that:
- The government's intent here is to ensure greater equity across all ratepayers. This is not just a discussion about equity amongst those who pay rates on units but a discussion across the entire territory rating base. It is important to acknowledge that

⁶⁷ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.55.

the equity issues are broader than just what the rates are for distributions within units.⁶⁸

- 4.7 The Director, Economic and Financial Analysis, Economic and Financial Group also responded to questions about the genesis of the new policy. She told the Committee that:

The original driver for the change, as mentioned previously, came out of the review of stage 2 of tax reform, which showed that in the first phase of tax reform the increases experienced by houses had been significantly higher than the increases experienced by units. On average, the increase per house was around 10 per cent per year; the increase per unit was around five per cent per year on average. That showed a discrepancy, and that was not what was intended. The intention was that all increases would be similar across the board.⁶⁹

- 4.8 She told the Committee that:

The reasoning behind the change was to rectify that and to bring units back into line with the increases across the average, across the period. What has happened is that the change in calculation has been designed to, yes, make the increases for units greater in that period. And that is what has happened. However, if we look at what has happened over the eight-year period, both units and houses have had a similar increase over the whole eight years since tax reform came into play. That has basically brought the increase for units up to the same level as houses over that period of time.⁷⁰

BASIS FOR ASSESSMENT

- 4.9 In hearings of 8 August 2018, the Treasurer told the Committee that:

the market values of the properties are also a factor in the government's consideration of equity, and this was one of the fundamental principles behind the change. As I pointed out previously, in my own electorate there were multimillion-dollar units paying less than outer suburban houses in your electorate ... That is inequitable, and we have addressed it.⁷¹

- 4.10 When asked whether considerations of market value were 'at odds' with the rating scheme being based on unimproved, rather than market, value, the Treasurer told the Committee

⁶⁸ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.55.

⁶⁹ Ms Kathy Goth, *Proof Transcript of Evidence*, 8 August 2018, p.56.

⁷⁰ Ms Kathy Goth, *Proof Transcript of Evidence*, 8 August 2018, p.56.

⁷¹ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.63.

that 'market values' were 'a factor driving our reason for making the change, in that properties of equivalent market value were paying very different rates', and that 'under the old system', properties 'that would rent for the same amount would pay very different rates'.⁷²

4.11 The Under-Treasurer also responded to questions about the role of 'market value' in the new methodology. He told the Committee that such considerations were 'a measure of fairness',⁷³ and that under the previous system:

- there were differences in rates 'for similar valued properties';
- 'detached housing rate increases were higher than unit increases over time'; and that
- 'under the old system ... the more you densified the smaller the amount of rates you would collect *in toto* for a given increase in rating factors' and that this 'would be an incentive to expand the city in greenfields estates, because an attached house in a greenfields estate would get more rates than a single dwelling unit'.⁷⁴

IS THE NEW SYSTEM PROGRESSIVE?

4.12 In hearings of 8 August 2018, the Committee asked questions as to whether under the new arrangements rates continued to be a progressive tax. In asking the question the Committee put the view that it was less progressive because unit owners were now assessed on the value of the parcel of land for on which units were situated under a strata plan, and were thus subject to top category for rating factors.⁷⁵

4.13 In responding, the Under-Treasurer told the Committee that 'progressivity in the system is in the ultimate rates bill you pay', rather than being represented by the application of different rating factors within the scale.⁷⁶

4.14 The Committee also asked the Treasurer about progressivity under the new system. The Committee asked whether it was true that in a scenario comparing four unit titled properties on a parcel of land, and a free-standing property on a parcel of land of the same value, each of the unit titled properties would previously have been assessed under lower rating factors than the owner of the free-standing property.⁷⁷

⁷² Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.63.

⁷³ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.67.

⁷⁴ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.67.

⁷⁵ *Proof Transcript of Evidence*, 8 August 2018, p.61.

⁷⁶ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.67.

⁷⁷ *Proof Transcript of Evidence*, 8 August 2018, p.64.

4.15 In answering, the Treasurer told the Committee that this was true; that previously the unit titled properties ‘would pay less’ and that responding to this was ‘the purpose of this change’.⁷⁸

4.16 When asked again whether rates continued to be progressive under these arrangements, the Treasurer told the Committee that the new system ensured ‘that, across the territory, across houses and units’, it was ‘a fairer system’.⁷⁹

4.17 The Committee also asked why, if that were the case, the top marginal rate in the ratings scale had been reduced in the 2018-19 Budget.⁸⁰

4.18 In response, the Under-Treasurer told the Committee:

We do not specifically look at each rating factor individually on its merits. We look at the entire system. The government considers the impact of the entire system on the entire housing stock—that includes changes in values in the entire housing stock—and makes considered decisions about where the average increase will be, where the maximum increases will be, where the lowest increases will be. And we adjust the system and the rating factors and thresholds.⁸¹

4.19 When asked what information had come to light which had led to the decision to adjust the top marginal rating factor, the Under-Treasurer told the Committee:

All of the marginal rates were set in order to achieve the most desired outcome in terms of impact of rate increases on the entire market.⁸²

WAS A RANGE OF METHODOLOGIES CONSIDERED?

4.20 In hearings, the Committee asked whether a range of methodologies was considered by Treasury, once it was perceived that there was a ‘disparity’ in the rates paid for units and stand-alone houses.⁸³

⁷⁸ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.64.

⁷⁹ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.65.

⁸⁰ *Proof Transcript of Evidence*, 8 August 2018, p.60.

⁸¹ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.60.

⁸² Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.61.

⁸³ *Proof Transcript of Evidence*, 8 August 2018, p.56.

4.21 In responding to the question, the Under-Treasurer told the Committee that:

The answer is: yes, we did. We looked at what we could do to change the rating factors and the fixed charge under the whole system. Our rate system currently is a single system, irrespective of dwelling type. We apply the same rating factors and thresholds whether it is a unit property or a detached house.⁸⁴

4.22 He told the Committee that:

We found that we could not come up with different rating factors and different value thresholds that would address the historical difference in rates since tax reform began, which [the Director, Economic and Financial Analysis, Economic and Financial Group, CMTEDD] outlined in terms of increases. That introduced the other choice that we considered, and that the government ultimately adopted, which was to essentially change the methodology of distributing rates between units in a unit complex. Previously values were distributed by unit entitlement; now we distribute rates essentially by unit entitlement.⁸⁵

4.23 He told the Committee that:

The other factor that we considered, and that the government adopted, was the rebate arrangement that it introduced. It phased the change in over a number of years instead of having the hit in one year. And the government made a further amendment to that in the previous budget.⁸⁶

4.24 The Under-Treasurer also told the Committee that:

That was the process we went through to come up with the answer. We essentially could not change the rating factors and rates in a way under the old system that would have rebalanced the rating system between houses and units in the way that we intended.⁸⁷

WAS MODELLING DONE?

4.25 In hearings, the Committee asked whether Treasurer had conducted modelling on changes to rates and land tax and their effect on rents in the ACT.⁸⁸

⁸⁴ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.57.

⁸⁵ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.57. Regarding 'Unit Entitlement', see *Unit Titles Act 2001*, Section 8.

⁸⁶ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.57.

⁸⁷ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.57.

⁸⁸ *Proof Transcript of Evidence*, 8 August 2018, p.57.

4.26 In responding, the Under-Treasurer told the Committee:

It is very difficult to draw a direct link with one particular input cost in rents. Rents by and large are determined by a complex range of factors. The most significant factor is the balance between supply and demand in a market. In our view, if a rental market is tight, that will put upwards pressure on rent. If a rental market has high vacancy rates, rental rates will tend to come down.⁸⁹

4.27 He told the Committee:

We do not believe it is a big factor. We did not do any explicit modelling to try to determine that because, in my view, such modelling would not have provided significant evidence either way of the impact of this change on rents.⁹⁰

4.28 When asked how a 'major policy shift' could be implemented without modelling being done, the Treasurer told the Committee that this was 'not a major policy decision'.⁹¹

4.29 When asked what information was presented to government on the impact of the change, the Treasurer responded. He told the Committee:

That information, around what it would mean for properties at various values, and the equity issues that cabinet considered in relation to the inequity of the previous system where, for example, multimillion-dollar units in certain parts of the city paid significantly less in annual rates than did modest outer suburban properties, those issues were brought to cabinet's attention, and cabinet responded in the only way that we could, putting principles of equity front and centre in determining taxation policy.⁹²

UNITS AND HOUSES

4.30 In hearings of 8 August 2018, the Committee asked questions as to differences in rates for units and houses before and after changes in policy on rates and land tax.⁹³

⁸⁹ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, pp.57-58.

⁹⁰ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.58.

⁹¹ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.58.

⁹² Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.59.

⁹³ *Proof Transcript of Evidence*, 8 August 2018, p.66.

4.31 In responding, the Director, Economic and Financial Analysis, Economic and Financial Group, told the Committee that:

Before tax reform, rates paid by units and houses were very similar in terms of their relationship to their unimproved value, so when rates went up from year to year, they would all go up by a similar amount. All units had lower AUVs under the old system.⁹⁴

4.32 She told the Committee that ‘pre tax reform’ — that is, before 2012 — increases ‘were similar across the board, and units generally were on the lowest AUV because of the way the calculations worked’.⁹⁵

4.33 At this point, the Under-Treasurer also responded to the question. He told the Committee that:

Essentially, pre the latest change—after tax reform but pre the latest change—there were two factors in the market. Even though we used AUV as the rating factor, similar market value properties were paying significantly different rates for a unit versus a stand-alone property. That could range from a 20 to 30 per cent difference to a 100 per cent difference.⁹⁶

4.34 In responding to his answer, the Committee asked the Under-Treasurer why he was continuing to employ market value as a yardstick for what rates and land tax should be paid, to which he replied by saying that this was ‘a dimension of fairness’.⁹⁷

4.35 Responding to this, the Committee asked the Treasurer whether this reliance on market value as an indicator for what rates or land tax was to be paid should prompt a ‘root-and-branch’ review of the rating system.⁹⁸

4.36 In responding, the Treasurer told the Committee:

No. All that has changed in the methodology is how the unimproved value of the property is shared and whether everyone benefits, regardless of the value of the unit, from a lower marginal tax rate or whether the system that we have put in place ensures that it captures a fairer share of the total revenue take from units. Unimproved land values as the methodology for collecting rates will not change under a government I lead. Full stop. I am not countenancing that ever.⁹⁹

⁹⁴ Ms Kathy Goth, *Proof Transcript of Evidence*, 8 August 2018, p.65.

⁹⁵ Ms Kathy Goth, *Proof Transcript of Evidence*, 8 August 2018, p.65.

⁹⁶ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, pp.65-66.

⁹⁷ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.66.

⁹⁸ *Proof Transcript of Evidence*, 8 August 2018, p.66.

⁹⁹ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.66.

UNITS AND UNITS

4.37 At another point in hearings, the Treasurer stated told the Committee that the new ratings system would support the differentiation of higher and lower value units in the same block of units for ratings purposes.¹⁰⁰

4.38 He told the Committee that:

the unit entitlement would be a significant differentiator between a one-bedroom unit and a penthouse in the context of a block of units, in that the strata rules—this would also go to the strata fees that would be payable within a multi-unit context—are that different sized dwellings within a multi-unit complex would receive a different unit title and rating, reflective of their size and value. That provides a differentiation to your example that although they might be levied at the same rate in certain locations, the difference between the size of the two dwellings and their value is taken into account in terms of the unit entitlement.¹⁰¹

4.39 When asked to define ‘unit entitlement’ the Treasurer told the Committee:

Say we have 10 units in a complex. Eight, for example, are of similar value, and there are two penthouses. The penthouses are rated not at one-tenth but at a higher rating because they are larger. That is how the unit entitlements are calculated. In most strata title arrangements, those dwellings would pay more to the body corporate and would also then attract a larger rates calculation in the context of their overall unit entitlement. Once you get the value of the block, you divide it by the number of dwellings, but you do not divide it just by the number; you also divide it in the context of their relative share of that overall block. That was the same under the old system: a one-bedroom dwelling would pay exactly the same tax rate as a penthouse under the old system.¹⁰²

4.40 The Treasurer also told the Committee that unit entitlement had not changed as a differentiator between higher and lower value units in the same block under the most recent changes.¹⁰³

¹⁰⁰ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.55.

¹⁰¹ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.55.

¹⁰² Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.55. Regarding ‘Unit Entitlement’ see *Unit Titles Act 2001*, Section 8.

¹⁰³ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.56.

CONSISTENCY WITH POLICY ON DENSIFICATION

ACT GOVERNMENT POLICY ON DENSIFICATION

4.41 The ACT government has made policy statements as to the desirability of densification in the ACT.

4.42 In 2012 the *ACT Planning Strategy: Planning for a sustainable city*, set out nine ‘strategies and actions’, the first of which was to:

Create a more compact, efficient city by focusing urban intensification in town centres, around group centres and along the major public transport routes, and balancing where greenfield expansion occurs.¹⁰⁴

4.43 More recently, on 3 April 2018, the Chief Minister and Treasurer, Mr Andrew Barr MLA, published a media release stating that:

Greater densification of our city centre, and along our major transport routes, will preserve the unique character of Canberra’s garden suburbs.

Public investment in new infrastructure – such as light rail and a new theatre – is being backed up by significant private investment in the vision that our city centre will be confident, fun and exciting.

By planning now for the predicted 500,000 people who will call Canberra home by 2030, we can shape the change and protect our heritage, before the change shapes us.

Urban renewal isn’t about knocking down our past; it’s about building a strong and proud future.¹⁰⁵

HEARINGS

4.44 In hearings of 8 August 2018, the Committee asked the Treasurer a number of questions as to whether changes to the methodology for determining rates and land tax were in conflict with government policies favouring densification in the ACT.¹⁰⁶

¹⁰⁴ ACT Government, *ACT Planning Strategy: Planning for a sustainable city*, 2012, p.6, viewed 14/08/2018, available at: https://www.planning.act.gov.au/_data/assets/pdf_file/0008/895076/2012_Planning_Strategy.pdf

¹⁰⁵ Andrew Barr MLA, ‘Renewing the spark across Canberra’, Media release, ACT Labor, 3 April 2018, viewed 14/08/2018, available at: <https://www.andrewbarr.com.au/news/latest-news/renewing-the-spark-across-canberra/>

¹⁰⁶ *Proof Transcript of Evidence*, 8 August 2018, p.67.

- 4.45 First, the Committee asked the Treasurer whether the ACT government wanted more people to live in apartments.¹⁰⁷
- 4.46 In responding, the Treasurer told the Committee that the government was ‘happy for people to live in whichever housing choice suits their needs’.¹⁰⁸
- 4.47 Second, the Committee asked whether the government had argued in favour of densification on grounds that further expansion of the urban footprint should be limited.¹⁰⁹
- 4.48 In responding, the Treasurer told the Committee that:

We have certain physical limitations on available land; that is true. But we release both greenfields and infill sites. We aim to provide housing that will meet a variety of different needs. It is up to individuals to determine whether their preference is to live in detached dwellings, semidetached dwellings or higher density accommodation. The government has no preference.¹¹⁰

- 4.49 When asked whether this represented a change in policy, the Treasurer told the Committee that it was ‘not a change in policy’ and that the government could not ‘direct, and never [had] directed, people that they must live in apartments’.¹¹¹
- 4.50 When asked whether it was the governments preference to have ACT residents living in higher density accommodation, the Treasurer told the Committee:

No. As I said, the government has no preference. We provide housing across a variety of different types; the market provides housing across a variety of different types. In the end, it will be the market and consumer preference that will determine the types of dwellings that people live in, noting that consumer trends have changed over time.¹¹²

- 4.51 He told the Committee that:

It would appear that my generation and those younger—and indeed those who wish to downsize—tend to prefer inner locations rather than outer locations. That has not always been the case in this city or in our nation’s history. But there are clearly trends emerging across this country and around the world for a preference from a large segment of the market to want to live close to where they work or close to

¹⁰⁷ *Proof Transcript of Evidence*, 8 August 2018, p.67.

¹⁰⁸ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.67.

¹⁰⁹ *Proof Transcript of Evidence*, 8 August 2018, p.67.

¹¹⁰ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.67.

¹¹¹ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.68.

¹¹² Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.68.

entertainment or activity precincts as opposed to living on the fringes of cities. That is not a choice everyone makes, but it is a choice that an increasing share of the market is making. Undoubtedly the market and those who are in the business of supplying houses are responding to that trend.¹¹³

4.52 He told the Committee that:

The government can put in place a range of policy settings that enable all types of housing to be available. You are aware and the Assembly is aware that all types of housing are available in the territory. There is a process underway to look at a particular market segment that has been loosely defined as the missing middle, semidetached properties. There may be a need to shift policy to allow more dwellings of that type to be built.¹¹⁴

4.53 The Treasurer also told the Committee that the ACT was ‘faced with certain realities ... around available land, around consumer preferences, and around market forces’, and that these would ‘dictate various outcomes in terms of different housing types’.¹¹⁵

COST OF SERVICES FOR HIGHER DENSITY DWELLINGS

4.54 In hearings of 8 August 2018 the Committee asked the Treasurer whether the cost of municipal services was lower where there were higher density dwellings, than for lower-density, stand-alone dwellings.¹¹⁶

4.55 In responding, the Treasurer told the Committee:

It will depend on location. Thirteen per cent of the territory’s budget is municipal, so we would need to distinguish between our state-level responsibilities and our local government responsibilities.¹¹⁷

4.56 When asked to comment specifically on the cost of providing municipal services, the Treasurer told the Committee:

Just in terms of municipal, it will depend. In some instances, greater density in certain areas will require augmentation of stormwater and sewerage infrastructure, road

¹¹³ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.68.

¹¹⁴ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.68.

¹¹⁵ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.68.

¹¹⁶ *Proof Transcript of Evidence*, 8 August 2018, p.68.

¹¹⁷ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.68.

augmentation and the like that would be more expensive than just having lower density housing.¹¹⁸

4.57 At this point the Committee noted that such additional expenses were paid for by developers; asked the Treasurer to comment specifically on government costs in this context; and asked whether there were efficiencies for government in people living in apartments.¹¹⁹

4.58 In responding, the Treasurer told the Committee:

Again, it depends on the location and the nature of services. In some instances, but not always. To make a blanket statement to that effect would not be accurate.¹²⁰

4.59 The Treasurer also told the Committee that:

With some areas of municipal services you will get economies of scale. Others—for example, road maintenance—will cost more if you have more users on the same piece of road. And there are footpaths and various other things. It will be a mixture.¹²¹

COMMERCIAL RATES

4.60 While this inquiry focuses on residential rates and land tax, in inviting the Treasurer and his officers to appear before the Committee, it asked representatives from Treasury to be prepared to answer questions regarding a particular matter concerning commercial rates.¹²²

4.61 With regard to this, the Committee stated that:

In September 2016, one property in Braddon was delivered a notice of back rates for, I think, five years, which amounted to in excess of \$500,000 in rates, and then other charges on top of that, amounting to close to \$800,000. The owners were given a fixed period to pay that. That case has been to the ACAT and has had some resolution. The owners had to sell the block of land to pay the back rates bill.¹²³

¹¹⁸ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.68.

¹¹⁹ *Proof Transcript of Evidence*, 8 August 2018, p.69.

¹²⁰ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.69.

¹²¹ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.70.

¹²² *Proof Transcript of Evidence*, 8 August 2018, p.71.

¹²³ *Proof Transcript of Evidence*, 8 August 2018, p.72. The ACT Civil and Administrative Tribunal (ACAT) case is *FANDS (ACT) Pty Ltd V Commissioner For Act Revenue (No. 2)*, 22 December 2017, viewed 16 August 2018, available at: http://acat.act.gov.au/data/assets/pdf_file/0006/1145364/FANDS-ACT-PTY-LTD-v-COMMISSIONER-FOR-ACT-REVENUE-No.-2-Administrative-Review-2017-ACAT-112.pdf

4.62 In light of this, the Committee asked the following question:

How is it that the valuation office overlooked, for a period of what appears to be five years, the fact that there had been a change of use on that block and therefore the unimproved value would have changed? How did that come about? Do you know? ¹²⁴

4.63 Additionally, the Committee asked:

How did that come about: that you did not notice that the particular block of land had a change of use charge for five years? ¹²⁵

4.64 In responding, the Commissioner for ACT Revenue (the Revenue Commissioner) and Executive Director, Revenue Management, told the Committee that:

Typically we get details of lease changes through both the Environment, Planning and Sustainability Directorate, as planning changes, and the land titles office. We marry that information up and we base the unimproved values on the change of the lease or the change in the zoning, depending on what has happened. In this case, we did not pick up the change to that particular property until much later, at which time we imposed the rates assessment given the correct unimproved value for that property. ¹²⁶

4.65 When asked whether as a result Treasury had imposed five years of assessment 'in one hit', the Revenue Commissioner told the Committee that this was so. ¹²⁷

4.66 At this point the Committee asked whether the ACAT, in *FANDS (ACT) Pty Ltd V Commissioner For Act Revenue (No. 2)*, had found that 'it was the responsibility of the landowner to notify the valuation office of the change in use charges', and whether this was the case. ¹²⁸

4.67 The Revenue Commissioner told the Committee that he believed this to be the case. ¹²⁹

4.68 The Committee asked whether there was any mechanism available for a landowner to notify the Valuation Office of a change of use, and whether a form was provided for this purpose. ¹³⁰

¹²⁴ *Proof Transcript of Evidence*, 8 August 2018, p.72.

¹²⁵ *Proof Transcript of Evidence*, 8 August 2018, p.72.

¹²⁶ Mr Kim Salisbury, *Proof Transcript of Evidence*, 8 August 2018, p.72.

¹²⁷ Mr Kim Salisbury, *Proof Transcript of Evidence*, 8 August 2018, p.72.

¹²⁸ *Proof Transcript of Evidence*, 8 August 2018, p.73. See *FANDS (ACT) Pty Ltd V Commissioner For Act Revenue (No. 2)* 256-271.

¹²⁹ Mr Kim Salisbury, *Proof Transcript of Evidence*, 8 August 2018, p.73.

¹³⁰ *Proof Transcript of Evidence*, 8 August 2018, p.73.

4.69 In responding, the Revenue Commissioner told the Committee that there was no form, but 'somebody could write a letter to us or ring us'.¹³¹

4.70 The Committee asked whether landowners were notified that it fell to them to notify the Commissioner for ACT Revenue of a change of use, or whether it was assumed that such information would be passed on to the Commissioner for the Land Title Office or through the ACT Planning and Land Authority (ACTPLA).¹³²

4.71 In responding, the Revenue Commissioner told the Committee:

There is an expectation underpinning tax administration and tax law that the taxpayer will bring to the tax authority any issue that is relevant to the assessment of taxation. I think that is what the ACAT summarised.¹³³

4.72 The Committee asked:

Just for future reference, if there is a change of use charge somewhere in Braddon, would you consider, as part of the toolkit or the checklist for everyone involved, some obvious mechanism for ensuring that the valuation office was made aware of the change of use charge?¹³⁴

4.73 In responding, the Revenue Commissioner told the Committee:

Yes, and in the normal course of events we would become aware of that.¹³⁵

4.74 The Revenue Commissioner agreed that 'in the normal course of events' such information would come through the Land Title Office or ACTPLA', and not from the taxpayer.¹³⁶

4.75 When asked whether taxpayers wrote to him on a regular basis to advise of changes of use on their land, the Revenue Commissioner told the Committee that:

We will get a taxpayer contacting us if their assessment looks incorrect, if it appears to be too much or not enough. In this case, clearly, the previous assessments were not enough. I think the ACAT said that there was an obligation on the taxpayer to inform the tax authority.¹³⁷

¹³¹ Mr Kim Salisbury, *Proof Transcript of Evidence*, 8 August 2018, p.73.

¹³² *Proof Transcript of Evidence*, 8 August 2018, p.73.

¹³³ Mr Kim Salisbury, *Proof Transcript of Evidence*, 8 August 2018, p.73.

¹³⁴ *Proof Transcript of Evidence*, 8 August 2018, p.73.

¹³⁵ Mr Kim Salisbury, *Proof Transcript of Evidence*, 8 August 2018, p.73.

¹³⁶ Mr Kim Salisbury, *Proof Transcript of Evidence*, 8 August 2018, p.73.

¹³⁷ Mr Kim Salisbury, *Proof Transcript of Evidence*, 8 August 2018, p.73.

4.76 When asked whether he routinely received such correspondence from landowners advising him of change of use, or whether he had ever received such correspondence, the Revenue Commissioner was unable to answer the question, and took this as a Question Taken on Notice.¹³⁸

4.77 The Committee asked whether his office had identified other blocks that were subject to back rates, and whether other leaseholders in Braddon would receive letters of demand for these rates.¹³⁹

4.78 In responding, the Revenue Commissioner told the Committee that there were indeed other blocks identified as being subject to back rates.¹⁴⁰

4.79 He told the Committee that:

This is an ongoing program. Yes, in some cases properties will be identified where rates have not been correctly applied and we will go back and reassess them. Yes, it will happen. It is an ongoing program. It is not just Braddon, but across the territory. If we have incorrectly assessed rates, we will go back and correct them and correctly assess them. That is part of the equity of the tax system.¹⁴¹

COMMITTEE COMMENT

4.80 In summary, in hearings the Treasurer and his officers told the Committee that:

- the most recent changes to the methodology for rates and land tax were based on a desire for ‘greater equity’ among ratepayers;¹⁴²
- the most recent change in methodology was based on — and was consistent with — the findings of the Quinlan tax review;¹⁴³
- the changes used improved values as a yardstick for fairness in rates and land tax;¹⁴⁴

¹³⁸ Mr Kim Salisbury, *Proof Transcript of Evidence*, 8 August 2018, p.74.

¹³⁹ *Proof Transcript of Evidence*, 8 August 2018, pp.74-75.

¹⁴⁰ Mr Kim Salisbury, *Proof Transcript of Evidence*, 8 August 2018, p.74.

¹⁴¹ Mr Kim Salisbury, *Proof Transcript of Evidence*, 8 August 2018, p.75.

¹⁴² Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.55.

¹⁴³ Ms Kathy Goth, *Proof Transcript of Evidence*, 8 August 2018, p.56.

¹⁴⁴ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.63; Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, pp.66, 67.

- the current rates and land tax system for units, as amended in 2017, continued to be progressive in terms of ‘the ultimate rates bill you pay’;¹⁴⁵
- the recent reduction in the top marginal rate for general rates was the result of looking ‘at the entire system’ of rating factors rather than correcting for a lack of fairness in the system introduced in 2017;¹⁴⁶
- a number of alternative rating systems were considered before the 2017 changes were introduced,¹⁴⁷ but that it was not possible to ‘change the rating factors and rates in a way under the old system that would have rebalanced the rating system between houses and units in the way that we intended’;¹⁴⁸
- modelling was not conducted on the effect on rents of changes were made to the rates and land tax system in 2017;¹⁴⁹
- disparities in rates and land tax between units and houses emerged as a result of ‘tax reform’ in 2012;¹⁵⁰
- the use of unimproved value as the basis of ‘the methodology for collecting rates’ would not change under a government led by the present Chief Minister and Treasurer;¹⁵¹
- the ACT government was not in favour of higher densification, that it was ‘happy for people to live in whichever housing choice suits their needs’, and that this was ‘not a change in policy’;¹⁵²
- it was not necessarily less expensive for the ACT government to provide municipal services to unit titled dwellings compared with free-standing dwellings;¹⁵³ and
- the ACT government did not ‘hypothecate’ municipal rates for municipal services.¹⁵⁴

4.81 In relation to these views, the Committee notes that non-government contributions to the inquiry, considered in the chapters below, for the most part offer views of the ACT rates and land tax system contrary to those expressed by the ACT government.

¹⁴⁵ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.67.

¹⁴⁶ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.60.

¹⁴⁷ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.57.

¹⁴⁸ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.57.

¹⁴⁹ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.58.

¹⁵⁰ Ms Kathy Goth, *Proof Transcript of Evidence*, 8 August 2018, p.65.

¹⁵¹ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.66.

¹⁵² Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, pp.67, 68.

¹⁵³ Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, p.70.

¹⁵⁴ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.69.

4.82 The remaining chapters of this report shed light on the merits — or otherwise — of claims by government and other contributors on these questions.

5 IS THE METHODOLOGY FAIR?

INTRODUCTION

- 5.1 This chapter considers the views of contributors to the inquiry regarding the fairness of the new methodology for determining rates and land tax in strata residences in the ACT.
- 5.2 It is the first of the six remaining chapters in the reporting which consider views and evidence put forward by contributors to the inquiry.
- 5.3 The chapter considers:
- comment on the former methodology for determining rates and land tax in strata residences;
 - comment on the new methodology;
 - access to the progressive scales for rates and land tax introduced in 2012;
 - anomalies in rates levied on units and houses;
 - anomalies in rates levied on units in different circumstances;
 - a recent reduction in the top rating factor in the progressive scale;
 - concerns over persons' capacity to pay the new rates and land tax liabilities;
 - objections to a perceived retrospectivity in legislation; and
 - whether increased rates and land tax charges were off-set by increases in property values.
- 5.4 These are considered below.

FORMER METHODOLOGY

- 5.5 Submitters to the inquiry described pre-2017 methodology for determining rates and land tax in the ACT, and made observations as to whether they considered it fair method to determine rates and land tax for strata residences.

MR DAVID KING

- 5.6 In his submission, Mr David King advised the Committee, in his comments on the previous system, that:

Rates are a tax on the land component of a property. They are determined on the unimproved capital value ... of the land. Under the system used before 2017-18, rates

included a fixed charge and a variable charge (the valuation-based charge) and now include various other fixed components – the fire and emergency services levy and safer families levy ...¹⁵⁵

5.7 The submission advised the Committee that:

The valuation-based charge for residential properties is based on a progressive rate scale (as is the scale for commercial properties, although its rates are higher). There was a tax-free threshold in the past, although it appears that it was abolished some time ago. However, the bottom rate that applies up to \$150,000 (the threshold is not indexed) at 0.2960 per cent is still somewhat lower than the next rate of 0.408 per cent that applies from \$150,000 to \$300,000 and so on. The ACT Government increased the rates in 2017-18 over 2016-17 and the fixed charge.¹⁵⁶

5.8 The submission advised that for unit title properties under the pre-2017 system, a fraction of the total value of a unit titled parcel of land was apportioned to each unit, to which rate factors were then applied.¹⁵⁷ As a result, the submission advised:

each unit owner had a full tax-free threshold (when it existed) and enjoyed the full benefit of the lower rate scale. This (arguably) may not have been perfect but it was a fair and reasonable way to divide up the property and logically defensible. Each unit holder was treated the same way as every other property owner. It would be difficult to conceive of a fairer way to apply rates (or land tax) in a practical way.¹⁵⁸

MS JANE GODTSCHALK

5.9 In her submission to the inquiry, Ms Jane Godtschalk, advised the Committee that until ‘the 2017-18 year, the methodology for calculating the rates of multi-unit dwellings and for houses was essentially the same’:

In each case a Valuation Based Charge was calculated on the Average Unimproved Value (AUV) of the property:

- in the case of a house, on the unimproved value of the land which it occupies; or
- in the case of an apartment in a multi-unit complex, on that apartment’s share of the unimproved value of the land occupied by the complex.¹⁵⁹

¹⁵⁵ Submission No. 63, Mr David King, p.1.

¹⁵⁶ Submission No. 63, Mr David King, p.1.

¹⁵⁷ Submission No. 63, Mr David King, p.1. In practice, the fraction is calculated as the ‘Unit Entitlement’ under Section 8 of the *Unit Titles Act 2001*.

¹⁵⁸ Submission No. 63, Mr David King, p.1.

¹⁵⁹ Submission No. 20, Ms Jane Godtschalk, p.2.

- 5.10 The submission advised that ‘an apartment’s (or townhouse’s) share is given by its unit entitlement’ and that at Landmark, ‘a large multi-unit complex, unit entitlements range from 0.21% to 1.14%’.¹⁶⁰
- 5.11 This methodology, the submission advised, ‘was relatively uncontroversial’.¹⁶¹
- 5.12 In addition to the Valuation Based Charge, the submission advised:
for all residential rate-payers there was (and still is) a Fixed Charge, uniform across rate-payers, ie not varying with the value of the property. A further fixed Fire and Emergency Services Levy and a Safer Families Levy are also added. The Fixed Charge (\$765) and the Safer Families Levy (\$30) are unchanged from 2016-17 to 2017- 18. The Fire and Emergency Services Levy increased from \$252 in 2016-17 to \$294 in 2017- 18. Finally, in 2017-18 there is a one-off rebate of \$100 for strata properties.¹⁶²
- 5.13 The submission advised that the Valuation Based Charge ‘is a smaller proportion of the overall rates bill for an apartment (or any residential property) with a low valuation than for one with a high valuation’ however, for ‘high value properties’, the ‘Valuation Based Charge greatly outweighs the sum of the fixed charges’.¹⁶³

MR JACK EVANS

- 5.14 In his submission to the inquiry, Mr Jack Evans advised the Committee that:
Improved Value has been an integral part of rate determination for some considerable period as it is the basis on which each strata unit’s UE (unit entitlement) is calculated. Section 8 (1) of the Unit Titles Act provides that “The schedule of unit entitlement is a schedule indicating (by numbers assigned to each unit) the improved value of each unit relative to each other unit (the unit’s unit entitlement).”¹⁶⁴
- 5.15 The submission advised that:
Under the pre 2017 arrangements, the VBC (Valuation Based Charge) of a strata unit was determined by applying the unit’s UE as a percentage of the property’s AUV to the tiered VBC. Thus each unit would enjoy the full benefit of the structured charging arrangements. It meant that, as required by the Unit Titles Act, a unit with an improved value of \$500,000 would be charged using a UE exactly half of that of another unit in

¹⁶⁰ Submission No. 20, Ms Jane Godtschalk, p.2.

¹⁶¹ Submission No. 20, Ms Jane Godtschalk, p.2.

¹⁶² Submission No. 20, Ms Jane Godtschalk, p.2.

¹⁶³ Submission No. 20, Ms Jane Godtschalk, p.2.

¹⁶⁴ Submission No. 97, Mr Jack Evans, p.3.

the same property with an improved value of \$1 million. As a result of the tiered structure of VBC the \$1 million unit would pay more than double that of the other unit (unless both were only charged at the first tier level when it would then be exactly double).¹⁶⁵

5.16 'Furthermore', the submission advised:

under these arrangements a house and a strata unit with the same AUV would pay exactly the same amount of rates. When variable charging is determined based on AUV it is, at first principle, a fair and equitable system.¹⁶⁶

NEW METHODOLOGY

5.17 Contributors to the inquiry expressed views on whether the new method to determine rates and land tax for strata residences was fair.

MR DAVID KING

5.18 In his submission, Mr David King advised the Committee that:

What the new system does is treat developments with units on them as a single property and apply the rate scale to its total unimproved capital value and then divide this total rate liability by the number of unit owners to arrive at the individual's liability. In the example above, it is as if I owned a property with a \$5 million unimproved capital value and my rates were determined on this basis. Then my considerably higher calculated rates liability is divided by 50 (as some sort of numerical concession) to determine my actual rates liability. I maintain this is ridiculous.¹⁶⁷

5.19 The submission advised that:

The effect of this calculation is that I obtain the benefit of only 1/50th of the lower rates threshold. If there were a tax-free threshold, I would obtain the benefit of only a 1/50th of the tax-free threshold. To suggest I own all of the common property (eg the backyard, stairwells, garbage room etc, which in my case may comprise say 2/3 of the total property, even more so, that I own all of the property, is ridiculous. I do not have exclusive use or exclusive possession of the common property and its land content. I

¹⁶⁵ Submission No. 97, Mr Jack Evans, p.3.

¹⁶⁶ Submission No. 97, Mr Jack Evans, p.3.

¹⁶⁷ Submission No. 63, Mr David King, p.1. In fact, calculations of 'Unit entitlement' for a unit under Section 8 of the *Unit Titles Act 2001* also include consideration of the Improved value of a unit.

have to share it with the other residents, which reduces its value (improved and unimproved) to me.¹⁶⁸

5.20 Under the previous system, the submission advised, dividing 'the property up initially into 50 units recognised this in a reasonable way'.¹⁶⁹

5.21 Mr King advised that in his case the 'land content of my small unit is small', and that for him to have 'only a fraction of the lower rate scales with my small unit and even smaller land content, simply because I live with other people in a separately titled development' was 'inequitable and arbitrary'.¹⁷⁰

A SUBMITTER

5.22 A submitter who asked the Committee to hold her surname in confidence advised the Committee that:

The effect of spreading the valuation based charge across the entire value of the property, which includes parcels of land owned by other unit owners and common property, which is owned the Body Corporate and for which the ACT Labor Government provides NO services, has been to severely financially disadvantage strata unit owners as the bulk of their valuation based charge is pushed into the top rates tier – despite the fact they do not individually own or have quiet enjoyment of the bulk of that land.¹⁷¹

5.23 The submission advised that:

This has not only created massive inequity between single title home owners and strata unit owners, it has also created significant inequity between strata unit owners within the same complex. At this complex, owners of the smallest units have been hit with the highest valuation based increases ...¹⁷²

5.24 The submission provided worked examples of how the new methodology applied to different properties in the same complex. The examples compared rates in 2016/17 and 2017/18 for a 2 bedroom, two-story property and a 3 bedroom single-story property, and found that the Valuation Based Charge had increased by 93.45% and 91.33% respectively,

¹⁶⁸ Submission No. 63, Mr David King, p.2.

¹⁶⁹ Submission No. 63, Mr David King, p.2.

¹⁷⁰ Submission No. 63, Mr David King, p.2.

¹⁷¹ Submission No. 96, [Name withheld], p.3.

¹⁷² Submission No. 96, [Name withheld], p.3.

resulting in total rates payable in 2017/18, respectively, of \$2,032.11 and \$2,092.98.¹⁷³ For another 3-bedroom single-story property in the same complex, the Valuation Based Charge increased by 89.33%, resulting in an estimated total rates liability for 2017/18 of \$2,132.41.¹⁷⁴

5.25 In light of this, the submission asked:

How is it possible for a unit owner with one of the smallest parcels of land (2 bedroom unit) to be subject to the greatest increase in valuation-based charge? While one of the largest (3 bedroom) units is subject to the smallest valuation based increase?¹⁷⁵

5.26 In relation to this, the submission advised that:

The 3-bedroom units have a much greater resale value than the 2 bedroom units (at least \$30-[\$40,000] more), yet the valuation based increase on the smallest property is the highest. And the difference between rates payable for 2017/18 on the smallest and largest units is negligible at between \$60 - \$100 dollars more for the 3-bedroom properties, which have a much greater resale value.¹⁷⁶

5.27 In commenting on these outcomes, the submission put the view that this was 'further evidence that the calculation is illogical, flawed, unsound and is manifestly unfair.'¹⁷⁷

5.28 When the submitter appeared before the Committee in hearings of 8 August 2018 the submitter made comment on whether the new methodology was fair.¹⁷⁸

5.29 The submitter told the Committee:

I do not believe the rate system that is in is fair. If anything, it is completely unfair. I am not here representing people who have multimillion-dollar units at Kingston. I live in a very modest unit in Hawker. For my unimproved value rates to go up by 93 per cent, from \$500 to over \$1,000, is unconscionable. I can only sell the 180 square metres of title I have, yet my rateable value is across the entire property, a third of which is not owned by anybody. It is owned by the body corporate.¹⁷⁹

¹⁷³ Submission No. 96, [Name withheld], p.3.

¹⁷⁴ Submission No. 96, [Name withheld], pp.3-4.

¹⁷⁵ Submission No. 96, [Name withheld], p.4.

¹⁷⁶ Submission No. 96, [Name withheld], p.4.

¹⁷⁷ Submission No. 96, [Name withheld], p.4.

¹⁷⁸ *Proof Transcript of Evidence*, 8 August 2018, p.78.

¹⁷⁹ *Proof Transcript of Evidence*, 8 August 2018, p.78.

5.30 The submitter told the Committee that:

With a stroke of a pen, the Chief Minister seems to have declared it almost a single-title property, treating it as a single-title property for rates purposes. But it is not. Legally, it is a strata unit; it is not a single property. It is multi titles across multiple units. Inequity for us is completely staggering.¹⁸⁰

MS JANE GODTSCHALK

5.31 In her submission to the inquiry, Ms Jane Godtschalk advised the Committee that the result of the change in methodology is that:

all the apartments in a multi-unit complex are now levied a Valuation Based Charge at the far higher rate applying to the AUV of the whole of complex, as if it was owned by a single person. Until 2017-18, each apartment paid the Valuation Based Charge (correctly) applying to that apartment's share of the overall AUV.¹⁸¹

5.32 Under these arrangements, the submission advised:

virtually every medium to large multi-unit complex will have an overall AUV above the threshold of \$600,000 for the top marginal tax rate for the Valuation Based Charge. Indeed, even a relatively modest set of townhouses can have an AUV of several million dollars. That means that all the unit-holders in such complexes now pay a Valuation Based Charge at close to the top marginal rate, even if they were previously at the lowest marginal rate.¹⁸²

MR MIKE BUCKLEY

5.33 In his submission to the inquiry, Mr Mike Buckley advised the Committee that:

Prior to 1 July 2017 the general rate for single dwellings and multi-unit residences was calculated on a consistent basis. (ACT Revenue Office June 2016) Prior to July 2017 the general rate formula multi-unit dwellings was:

$$1. FC + (AUV * UE * P)$$

Post July 2017

$$2. FC + (AUV * P) * UE$$

¹⁸⁰ *Proof Transcript of Evidence*, 8 August 2018, p.78.

¹⁸¹ Submission No. 20, Ms Jane Godtschalk, p.3.

¹⁸² Submission No. 20, Ms Jane Godtschalk, p.3.

(FC – fixed charge, AUV – three-year average of unimproved land value, UE - individual unit entitlement, P – rating factors or percentages).

The part of the formula in parenthesis is the valuation-based component of the general rate.¹⁸³

5.34 The submission advised the Committee that:

shifting the UE component of the formula outside the parenthesis (and changing its order in the equation) means that the marginal rate is applied to the entire value of the unit title plan and not just the unit holder's share of the unimproved land value of the unit's title plan.¹⁸⁴

5.35 The submission advised that if the 'single block' treatment were 'applied on consistent basis, that is the unit title's plan is treated as a single residence, then the fixed charge would only be applied once'.¹⁸⁵

5.36 'However', it advised, 'that approach would result in significantly less revenue being collected':

Instead, formula 2 is a hybrid of the two possible treatments - each unit pays the fixed charge and then the marginal rate is applied as if the unit title's plan is a [single] dwelling.¹⁸⁶

5.37 Regarding this, the submission put the view that:

As a strategy for raising more revenue the change is a very effective sleight of hand. However, it has introduced an inconsistency into the tax system by levying a tax on the value of an asset which is not owned by the taxpayer.¹⁸⁷

¹⁸³ Submission No. 25, Mr Mike Buckley, p.3.

¹⁸⁴ Submission No. 25, Mr Mike Buckley, p.3.

¹⁸⁵ Submission No. 25, Mr Mike Buckley, p.3.

¹⁸⁶ Submission No. 25, Mr Mike Buckley, p.3.

¹⁸⁷ Submission No. 25, Mr Mike Buckley, p.3.

MR JACK EVANS

5.38 In his submission to the inquiry, Mr Jack Evans advised the Committee that:

A significant conclusion of the ACT Taxation Review (May 2012), subsequently described as the Quinlan Review, was that the ‘current rates system disproportionately taxes smaller properties’.¹⁸⁸

5.39 The submission advised that the ‘changes introduced by the current Government, which have no direct link with the recommendations of the Quinlan Review’, would from 1 July 2018 result in:

1. Only those strata units where the entire complex’s AUV (Average Unimproved Value) is less than \$150,001 will pay the same rates as an equivalent freestanding house
2. Every other strata unit in the ACT will be paying more, many considerably more, potentially up to an extra \$940 per unit per year
3. For many small strata unit this will increase further their already disproportionately high taxes
4. Yet until 1 July 2017 both strata and freestanding properties were subjected to exactly the same methodology and thus the same charges.¹⁸⁹

5.40 Regarding these outcomes, the submission put the view that the changes would create ‘substantial inequities in the rates charged on equivalent strata units’ and would penalise ‘strata properties efficient use of land’.¹⁹⁰

MR ROD MANN

5.41 When he appeared before the Committee in hearings of 4 July 2018, Mr Rod Manns told the Committee that he thought the new methodology was ‘illogical’ as it took into account:

the property owned by people other than a unit owner—that is, all the other properties in a unit complex—in order to calculate the rates for an individual unit holder. That does not apply to houses. It is not logical at all. It is unfair. It subjects pretty much all unit owners to the highest marginal rate.¹⁹¹

¹⁸⁸ Submission No. 97, Mr Jack Evans, p.1, citing *ACT Taxation Review*, May 2012, p.175, viewed 25 May 2018, available at: <http://www.treasury.act.gov.au/documents/ACT%20Taxation%20Review/ACT%20Taxation%20Review%20May%202012.pdf>

¹⁸⁹ Submission No. 97, Mr Jack Evans, p.1.

¹⁹⁰ Submission No. 97, Mr Jack Evans, p.1.

¹⁹¹ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.28.

5.42 As a result, Mr Manns told the Committee:

Ninety-five per cent of unit holders are now paying rates at the highest marginal rate, whereas around 10 per cent of house owners pay at that rate.¹⁹²

5.43 When asked to clarify comments that the new methodology was not fair, Mr Manns told the Committee:

I will make it simple. The value of the land associated with my unit is 140-odd thousand dollars. There are not very many house blocks in Canberra where the owner would own land with such a limited value. I pay rates on \$140,000—the value of land that I own, but I am charged at the rate, cents in the dollar, that applies to the value of the whole block of \$7.9 million. So I pay at the highest marginal rate. A house block owner with a similar value of land would pay at the lowest marginal rate. That is the inequity.¹⁹³

5.44 In responding to further questions, Mr Manns told the Committee that the ‘old system was fair’ because it ‘only took account of the value of land that the individual property owner owned’:¹⁹⁴

No other consideration was brought to bear—not the value of the land owned by his or her neighbours in the whole block. If you live in a house in a street, you do not get charged a marginal rate based on adding up the values of the house blocks of your neighbours.¹⁹⁵

5.45 In response to further questions, Mr Manns also told the Committee that:

if I were a single owner owning that whole \$7.9 million block, I would pay rates at that top marginal rate, but I would pay one lot of fixed charges, which are now a very substantial part of the average person’s rates bill.¹⁹⁶

5.46 However, he told the Committee:

In a unit block, I am now paying at that top marginal rate, but the government is getting 80 times the fixed charges, because every unit owner pays that, no matter how small their unit is. I have calculated that under the new system a single owner of that

¹⁹² Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.28.

¹⁹³ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.30.

¹⁹⁴ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.31.

¹⁹⁵ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.31.

¹⁹⁶ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.32.

block would pay about 36 per cent of the rates that the combined 80 units will be paying. Where is the logic in that?¹⁹⁷

ACCESS TO THE PROGRESSIVE SCALE

5.47 As noted above, a progressive scale for rates was introduced as part of tax reform in 2012.¹⁹⁸ Some contributions to the inquiry put the view that recent changes in the methodology to determine rates and land tax for strata residences had denied owners access to the progressive scale.

MS JANE GODTSCHALK

5.48 In her submission to the inquiry, Ms Jane Godtschalk advised the Committee that:

For 2017-18, the methodology for calculating the Valuation Based Charge was changed. An overall Valuation Based Charge is now calculated for the whole multi-unit complex, and apportioned between the apartments (or townhouses) in the complex in accordance with the unit entitlements.¹⁹⁹

5.49 The submission advised that:

The effect of a progressive tax scale is that the Valuation Based Charge for a higher AUV is not only higher than for a lower AUV, but a higher proportion of the AUV. For example, the Fixed Valuation Based Charge for an AUV of \$140,000 is 0.2960% of \$140,000; that is, \$414.40.²⁰⁰

5.50 The submission provided a further example to illustrate this:

The Valuation Based Charge for an AUV of \$550,000 is the sum of:

- the tax on the first tranche of \$150,000, namely 0.2960% of \$150,000, which is \$444.00; and
- the tax on the next tranche of \$150,000 (\$300,000 minus \$150,000), namely 0.4088% of \$150,000, which is \$613.20; and
- the tax on the next tranche of \$150,000 (\$450,000 minus \$300,000), namely 0.5130% of \$150,000, which is \$769.50; and

¹⁹⁷ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.32.

¹⁹⁸ See Mr Andrew Barr MLA, Legislative Assembly for the ACT, *Debates*, 5 June 2012, pp.2615-2617 and Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1), Disallowable instrument DI2018–172, Table 1.

¹⁹⁹ Submission No. 20, Ms Jane Godtschalk, p.2.

²⁰⁰ Submission No. 20, Ms Jane Godtschalk, p.2.

- the tax on the final tranche of \$100,000 (\$550,000 minus \$450,000), namely 0.5603% of \$100,000, which is \$560.30.

This sum is \$2,387.00.²⁰¹

5.51 Regarding these examples, the submission advised the Committee that:

Thus, the Valuation Based Charge for an AUV of \$140,000 represents 0.2960% of the AUV, while the Valuation Based Charge for an AUV of \$550,000 represents 0.4340% of the AUV; that is, a 46.6% higher rate of tax. This is the nature of progressive taxes, like the income tax.²⁰²

5.52 The submission advised the Committee that the effect of the 2017-18 change in methodology was that:

all the apartments in a multi-unit complex are now levied a Valuation Based Charge at the far higher rate applying to the AUV of the whole of complex, as if it was owned by a single person. Until 2017-18, each apartment paid the Valuation Based Charge (correctly) applying to that apartment's share of the overall AUV.²⁰³

5.53 As a result, the submission advised:

A small, one-bedroom unit in a multi-unit complex now pays a Valuation Based Charge calculated at exactly the same rate as for a penthouse in the same complex. Moreover, virtually every medium to large multi-unit complex will have an overall AUV above the threshold of \$600,000 for the top marginal tax rate for the Valuation Based Charge. Indeed, even a relatively modest set of townhouses can have an AUV of several million dollars.

5.54 The submission advised that this 'means that all the unit-holders in such complexes now pay a Valuation Based Charge at close to the top marginal rate, even if they were previously at the lowest marginal rate'.²⁰⁴

5.55 In light of this, the submission advised that:

the increases in the Valuation Based Charge for the least valuable apartments are proportionately the highest, and the increases for the most valuable apartments are proportionately the lowest (although the amount of the Valuation Based Charge remains, of course, much higher for the most valuable apartments).²⁰⁵

²⁰¹ Submission No. 20, Ms Jane Godtschalk, p.3.

²⁰² Submission No. 20, Ms Jane Godtschalk, p.3.

²⁰³ Submission No. 20, Ms Jane Godtschalk, p.3.

²⁰⁴ Submission No. 20, Ms Jane Godtschalk, p.3.

²⁰⁵ Submission No. 20, Ms Jane Godtschalk, p.3.

5.56 As a result, the submission advised:

What was a progressive tax is now, within a given complex, no longer progressive. The change is consequently regressive.²⁰⁶

5.57 The submission went on to provide further examples of the effect of the change to the methodology, specific to the Landmark apartment complex in Barton.²⁰⁷

5.58 The submission advised that:

The Landmark complex in Barton has an AUV of \$51,609,965, reflecting its size and location. However, it also has a large number of apartments: 282. The smallest of these apartments have a share of less than a quarter of one per cent of the overall value of the complex, and of its AUV for rating purposes. That is, they are entitled to less than one four-hundredth of the total value. Thus, their share of the total AUV is less than \$130,000. Until this year, they paid rates based on that AUV of less than \$150,000.²⁰⁸

5.59 'Now', the submission advised:

they pay rates based on the consolidated AUV for the complex which, under the new calculation methodology, means that every apartment pays the Valuation Based Charge at a rate of 0.6% (0.5995%). This [means] that if the unit entitlement of this small apartment was 0.23%, the AUV would be \$118,702, which under the previous methodology would have given rise to a Valuation Based Charge of \$351.36, as for an individual block with that AUV.²⁰⁹

5.60 Under the new methodology, however 'the Valuation Based Charge would be \$711.60'.²¹⁰

5.61 The submission considered relativities between units and free-standing dwellings, in particular as to the AUVs free-standing dwellings would have to achieve if they were to attract a similar rates liability.

5.62 The submission advised that for the smallest apartments considered in her example:

if the unit entitlement of this small apartment was 0.23%, the AUV would be \$118,702, which under the previous methodology would have given rise to a Valuation Based Charge of \$351.36, as for an individual block with that AUV. Instead, under the new methodology, the Valuation Based Charge would be \$711.60. A single dwelling would

²⁰⁶ Submission No. 20, Ms Jane Godtschalk, p.3.

²⁰⁷ Submission No. 20, Ms Jane Godtschalk, pp.3-4.

²⁰⁸ Submission No. 20, Ms Jane Godtschalk, p.3.

²⁰⁹ Submission No. 20, Ms Jane Godtschalk, p.3.

²¹⁰ Submission No. 20, Ms Jane Godtschalk, p.4.

have to have an AUV of around \$215,460, over 80% more, to be liable for the same Valuation Based Charge of \$711.60.²¹¹

5.63 For the two-bedroom apartment given as an example in the submission, its share in Landmark's overall AUV of \$185,795, corresponding to a unit entitlement of 0.36%, would result in a Valuation Based Charge of \$1,113.80, 'which would be paid by a single dwelling only when its AUV was \$311,033, 67% greater'.²¹²

5.64 For the three-bedroom apartment given as an example, a unit entitlement of 1.14% results in an AUV of \$588,353 and is liable to a Valuation Based Charge of \$3,527.05 which would be paid by a single dwelling only when its AUV was \$743,002, 26% greater.²¹³

5.65 In light of these examples and their outcomes, the submission advised the Committee that:

Because of the vagaries of the combination of a valuation-based charge with various fixed charges, the increases in the total rates bill vary across apartments in a counter-intuitive fashion.²¹⁴

5.66 The submission advised that:

As shown in the examples at the beginning, the greatest percentage increases in total rates occur for those apartments in the middle of the range of apartment values. The peak increase in the Valuation Based Charge is about 106% (a more than doubling) for the lowest-valued apartments. The peak increase in total rates bill is around 35% for an apartment with a unit entitlement of around 0.58%.²¹⁵

5.67 Reflecting on these outcomes, the submission stated that it was 'impossible to see any logic in this pattern'.²¹⁶

MR ROD MANN

5.68 In his submission to the inquiry, Mr Rod Manns advised the Committee that the new methodology is 'unfair' as '[a]lmost all unit owners are now largely deprived of benefit from the marginal rating factors, while almost all house owners benefit significantly'.²¹⁷

²¹¹ Submission No. 20, Ms Jane Godtschalk, pp.3-4.

²¹² Submission No. 20, Ms Jane Godtschalk, p.4.

²¹³ Submission No. 20, Ms Jane Godtschalk, p.4.

²¹⁴ Submission No. 20, Ms Jane Godtschalk, p.4.

²¹⁵ Submission No. 20, Ms Jane Godtschalk, p.4.

²¹⁶ Submission No. 20, Ms Jane Godtschalk, p.4.

²¹⁷ Submission No. 7, Mr Rod Manns, p.1.

5.69 The submission advised that ‘Treasury figures show that 95% of unit owners now pay rates at the top marginal rate while only 10% of house owners do’,²¹⁸ because:

Almost all units are in blocks with total land values over \$600,000, so almost no unit owners now receive any significant benefit from the tiered marginal rating factors.²¹⁹

5.70 In contrast, the submission advised:

Almost all house owners have their rates calculated on land values under \$600,000, so receive substantial benefit from the marginal rates tiers.²²⁰

5.71 This, the submission advised, was ‘manifestly unfair’. It was also unfair that ‘unit owners have had a much larger increase in rates in 2017-18 than house owners’, and that government figures, attached to the submission showed marked differences between units and houses.²²¹

5.72 Moreover, the submission advised:

As these figures include fixed charges and levies, they mask the extent of the increase in the land valuation component of rates which is attributable directly to the new methodology. I have attached redacted copies of rates notices for my unit ... The land valuation component increased by 115% from 2016-17 to 2017-18, or by more than 100% after the general across-the-board increase in rates for all properties is taken into account.²²²

5.73 The submission of what it described as government attempts ‘to play down the increase in rates for units with statements such as’:

...it is important to note that, even after the methodology change, over 90 per cent of unit holders pay rates as if they were in the lowest two marginal rating categories’.²²³

5.74 The submission advised that Treasury had confirmed that this view was ‘based on a comparison with rates for houses in the lowest two land valuation categories’; that other figures from Treasury and the Canberra Times showed that ‘1% of houses and 72% of units have a land value of \$150,000 or less’; and that as a result it was clear that ‘the average house land value in the two lowest marginal rating categories is much higher than those for

²¹⁸ Submission No. 7, Mr Rod Manns, p.3.

²¹⁹ Submission No. 7, Mr Rod Manns, p.3.

²²⁰ Submission No. 7, Mr Rod Manns, p.3.

²²¹ Submission No. 7, Mr Rod Manns, p.3.

²²² Submission No. 7, Mr Rod Manns, p.3.

²²³ Submission No. 7, Mr Rod Manns, pp.3-4, citing Mr Andrew Barr MLA in Legislative Assembly for the ACT, *Debates*, 25 October 2017, p.4301, viewed 16 August 2018, available at:

<http://www.hansard.act.gov.au/hansard/2017/week12/4301.htm>

units with equivalent rates bills'. The submission also noted that the figures on which the comparison was based included fixed charges, and this masked 'to some extent the effect of the change of methodology on the land valuation component'.²²⁴

- 5.75 The submission advised that a 'more meaningful comparison' would be to compare 'the land valuation component of rates now paid by houses and units respectively according to the land values of individual properties in each land valuation rating tier'. In fact, it suggested units in an example provided in the submission payed 'much more' in rates 'than houses with a similar land value'.²²⁵

MR PHILLIP BARON

- 5.76 In his submission to the inquiry, Mr Phillip Baron advised the Committee that he was concerned about the fairness of the new arrangements. The submission asked why 'almost all people who own strata units' should 'have all their Value Based Charge calculated using the highest marginal rate factor of 0.6013%', and advised that this change to the formula for determining rates had 'resulted in a 100% plus increase in the VBC for many units'.²²⁶

- 5.77 When he appeared in hearings of 13 June 2018, Mr Baron was asked as to why he thought the previous rates system was fairer than the new system.²²⁷

- 5.78 In responding, Mr Baron told the Committee that:

In the old regime my block came into the lowest AUV percentage, which is currently 0.2960. My block now comes in at 0.6013. I would think every unit in every unit plan, whether or not it is multistorey, would be in 0.6. As I have said in my submission, our block is valued at \$5,351,000, which means that this thing here is basically irrelevant. Everybody is straight up on to 0.6.²²⁸

- 5.79 Moreover, he told the Committee, he was concerned that:

In the future, if some bright spark comes along and thinks, "Well, all these people on 0.6 must be living in penthouses. We will just crank that one up higher than for the poor people with lower block values," that would make it even worse.²²⁹

²²⁴ Submission No. 7, Mr Rod Manns, p.3.

²²⁵ Submission No. 7, Mr Rod Manns, p.4.

²²⁶ Submission No. 11, Mr Phillip Baron, p.2.

²²⁷ *Transcript of Evidence*, 13 June 2018, p.2.

²²⁸ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.2.

²²⁹ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.2.

5.80 Mr Baron told the Committee that under the new system:

Everyone from a one-bedroom bedsitter up is now on 0.6. I do not think that is fair. It is just not fair.²³⁰

5.81 When asked whether he thought that house owners should pay more in rates, Mr Baron told the Committee:

It comes down to the size of the block of land, really. A detached house has a much larger block of land under it, and there are a lot more options to, I guess, make capital gains from a larger block of land. For example, if they are in the right RZ zone they can subdivide it and presumably have it split into two townhouses and that sort of thing. I cannot do that.²³¹

5.82 When asked whether there was a particular category of unit owner to whom a higher category of rates should be applied, Mr Baron told the Committee:

No. I am just saying that the percentage increase that is put across the board should be across the board, not a higher increase for unit holders than what it is for detached housing holders. I do not think ours should be less than detached.²³²

MS MELITA DAHL

5.83 In her submission to the inquiry, Ms Melita Dahl also expressed concerns about access for unit owners to the progressive scale for rates.

5.84 The submission advised the Committee that the 'claim' by Treasury 'that 91 per cent of rates for strata residences are calculated at the lower marginal rate category' was 'not true', as the 'statistics ... do not accurately reflect the amount of strata residences predominantly charged at the highest marginal rate category'.²³³

5.85 The submission advised the Committee that a survey attached to the submission of the suburb of Cook demonstrated that '53.8 to 96.7 per cent of the marginal rates for approximately 417 strata residences in Cook alone are calculated at the highest marginal rate (AUV of \$600,001 and above)'.²³⁴

²³⁰ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.2.

²³¹ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.6.

²³² Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.6.

²³³ Submission No. 56, Ms Melita Dahl, pp.1-2.

²³⁴ Submission No. 56, Ms Melita Dahl, p.2.

- 5.86 Ms Dahl's submission advised that unimproved land value of her unit entitlement was \$167,000, but due to the new methodology she was being charged as if she had 'purchased a residence on land valued at \$3.27 million'.²³⁵

OTHER CONTRIBUTORS

- 5.87 Other submitters made similar comments on the effect of the change of methodology on access to the progressive scale for rates.

- 5.88 In his submission to the inquiry, Mr R O'Connell advised that:

The sliding scale of marginal rates means that everything over \$600,000 in the AUV for our entire strata complex attracts the top valuation rate. All future increases in the AUV of the total land of the complex (or any increase in the top calculation rate) will result in all future rates increases for our individual units being at that top rate; unlike similar houses nearby where their AUV's range from the mid \$300,000s.²³⁶

- 5.89 In his submission, Mr Gary Barnes asked:

Why should almost all people who own strata units have all their rates and land tax calculated on the highest rating tier factor?²³⁷

- 5.90 In his submission, Mr Gary Jobson asked why 'almost all people who own strata units' should 'have all their Value Based Charge calculated using the highest marginal rate factor of 0.6013%' and advised that this 'modification to the formula' had 'resulted in a 100% plus increase in the VBC for many units'.²³⁸

- 5.91 In a further submission, Mr Gary Petherbridge advised the Committee that:

"Fairness" for the Rating and Land Tax Revenue System has been the catch-cry for the Treasurer and Revenue Office. In many letter replies to community complaints this need for "fairness" was repeated more as a "3 word slogan" rather than providing reasonable explanation of how the new system is "fairer". In particular many comments received (from community) highlighted that the New Method of Calculation excluded almost all Strata Property Owners from the Lower Tiers of the Scaled Rating Factors which are available to individual House Block properties.²³⁹

²³⁵ Submission No. 56, Ms Melita Dahl, p.2.

²³⁶ Submission No. 59, Mr R O'Connell

²³⁷ Submission No. 3, Mr Gary Barnes, p.1.

²³⁸ Submission No. 24, Mr Gary Jobson, p.2.

²³⁹ Submission No. 53, Mr Gary Petherbridge, pp.1-2.

5.92 The submission advised that this ‘was of particular concern – and had significant impact on owners of smaller 1 and 2 bed-room flats’ as ‘[n]o comparative 1 or 2 bed-room houses exist in the ACT’.²⁴⁰

ANOMALIES BETWEEN UNITS AND HOUSES

5.93 A number of contributors to the inquiry put the view to the Committee that the new rates system had created anomalies between rates assessments for units and those for free-standing houses.

A SUBMITTER

5.94 In a submission to the inquiry, a submitter who asked not to be named advised the Committee that under the new rates system, the ‘financial advantage for single title home-owners over strata unit owners [was] staggering’, because single title home-owners could ‘realise the valuation based rates costs when they sell their property’, but strata unit owners could not. This, the submission advised, was ‘financially and morally wrong’, and demonstrated ‘the flawed assumptions and lack of logic in the new rates and land tax calculation’.²⁴¹

5.95 The submission advised, by way of illustration, that:

If single title home-owners were treated the same way as strata unit owners, the consequence would be to base their rates on the unimproved land value for the entire street (including any land owned by the ACT government such as the road and playground areas). That value would then be used to calculate their rates as strata unit rates and would push the majority of the total land value into the highest tax tier.²⁴²

5.96 The submission advised that while this ‘would result in another massive financial windfall for the ACT Labor Government’, it would not be ‘legally possible’ because ‘single title houses are owned by individual owners and common land is generally owned and maintained by the ACT Government’.²⁴³

²⁴⁰ Submission No. 53, Mr Gary Petherbridge, p.2.

²⁴¹ Submission No. 96, [Name withheld], p.2.

²⁴² Submission No. 96, [Name withheld], p.2.

²⁴³ Submission No. 96, [Name withheld], p.2.

MR PETER DAVIES

5.97 In his submission to the inquiry, Mr Peter Davies advised the Committee that:

The changes in the charging mechanism in 2017-2018 means that all owners are charged a Valuation Based Charge (VBC) at the highest rate applicable and not their proportion of the Average Unimproved Value of the land being assessed. This treats every owner in the complex as if they owned the whole parcel of land themselves.²⁴⁴

5.98 The submission put the view that, in the pursuit of 'equity and consistency', the 'treatment of the Fixed Charge, Fire & Emergency Services Levy and Safer Families Levy components of the rates calculation formula' should be calculated 'in a similar manner as a stand-alone property (as the treatment of the VBC as described above)', and that it was 'disingenuous to treat one component in one manner and the other components in a different manner'.²⁴⁵

5.99 The submission stated that:

To further demonstrate the inequity in this methodology, we have calculated the charges on all Waterfront owners whilst looking at the charges the ACT Government could impose if the block where Waterfront is built, was occupied by eight (8) owners, each having a quarter acre block.²⁴⁶

5.100 These calculations were presented as follows:

Billing Waterfront residents (new methodology)

Component	VBC	Fixed charge	FESL	SFL	Total
	\$92,000	\$79,560	\$30,756	\$3,120	\$205,436

Billing Waterfront residents (old methodology)

Component	VBC	Fixed charge	FESL	SFL	Total
	\$55,800	\$79,560	\$30,756	\$3,120	\$169,236

Billing eight (8) owners

Component	VBC	Fixed charge	FESL	SFL	Total
	\$92,000	\$6,120	\$2,352	\$240	\$100,712

5.101 The submission stated that these examples 'show an amazing windfall for the ACT Government', which would be 'emulated every year', in addition to 'the additional charges the ACT Government would be entitled to with its part-ownership of ActewAGL and Icon Water'.²⁴⁷

²⁴⁴ Submission No. 62, Mr Peter Davies, p.1.

²⁴⁵ Submission No. 62, Mr Peter Davies, p.1.

²⁴⁶ Submission No. 62, Mr Peter Davies, p.1.

²⁴⁷ Submission No. 62, Mr Peter Davies, p.2.

MR JUSTIN WUNSCH

- 5.102 In his submission to the inquiry, Mr Justin Wunsch made similar representations.
- 5.103 The submission advised the Committee that he owned ‘an apartment and live in the Fitzroy apartment complex’ in Crace, comprising 54 apartments in ‘three storeys on the total land area footprint’.²⁴⁸
- 5.104 The submission advised that this footprint ‘footprint would otherwise accommodate approximately 4 freestanding homes with medium sized backyards’, each of which would attract a rates liability of ‘approximately \$2300 per year’, amounting to a ‘total rates contribution of \$9200 per annum’.²⁴⁹
- 5.105 However under present conditions, the submission advised, Mr Wunsch’s one-bedroom apartment attracted a rates liability of ‘around \$1200 per year’, and the complex as a whole ‘a minimum of \$64800’.²⁵⁰

- 5.106 Reflecting on this, the submission advised that:

Given my apartment occupies around 1/20th of the area of a free standing home, and that there are 2 other apartments above me and therefore occupying the same footprint, I find it inequitable that I am required to pay more than half of the rates of a much larger freestanding property.²⁵¹

- 5.107 Moreover, it advised:

The larger freestanding property attracts far greater amenity and potential for capital gain and is more likely to be owned by individuals who are far better placed to bear a larger share of the tax burden.²⁵²

MR JACK EVANS

- 5.108 In his submission to the inquiry, Mr Jack Evans advised the Committee that he regarded the new methodology as unfair.

²⁴⁸ Submission No. 28, Mr Justin Wunsch.

²⁴⁹ Submission No. 28, Mr Justin Wunsch.

²⁵⁰ Submission No. 28, Mr Justin Wunsch.

²⁵¹ Submission No. 28, Mr Justin Wunsch.

²⁵² Submission No. 28, Mr Justin Wunsch.

- 5.109 The submission advised the Committee that the consequence of the 2017 change to methodology was that ‘no strata unit will pay less than a house with an equivalent AUV and the vast majority of strata unit will pay more’.²⁵³
- 5.110 The submission advised that the government attempted ‘to justify this on the basis of an example of a strata unit paying less in rates than a freestanding house which has a lower improved value’, however it stated that ‘[n]othing advanced by the Government demonstrates that this is a universal truth’.²⁵⁴
- 5.111 The submission provided an example to support this assertion, comparing a ‘standalone house at 51 Duffy Street Ainslie [which was] advertised (10 March 2018) at \$1.9 million and, based on an AUV of \$737,000, would have a VBC liability of \$3,491’ with the submitter’s own apartment which had ‘a marginally higher VBC liability (\$3,527) but ... an improved value of less than 80% of the Duffy Street property’.²⁵⁵
- 5.112 The submission put the view that it was ‘inequitable’ that ‘the house’s average VBC level of 0.47% [was] lower than every unit in my property all of which must pay the VBC at 0.6%, over 25% higher’.²⁵⁶
- 5.113 Reflecting on this, the submission commented on the ‘disparity in these respective property values’, and there being ‘so little difference in the rates which must be paid’. It questioned why ‘the most valuable property, the standalone house, enjoys a tax benefit of a lower VBC rate than even the most modest 1 bedroom apartment’, and asked whether this did not have ‘the features of a regressive tax’.²⁵⁷
- 5.114 As a result of these arrangements, the submission advised, setting aside the ‘one-off \$100 rebate’, no unit could ‘possibly pay less than a freestanding house with the same AUV’. Rather, ‘every unit where the combined property’s AUV exceeds \$150,000 will pay more’.²⁵⁸
- 5.115 Commenting further, the submission advised that:

At an AUV of \$150,000, the base tier for VBC calculations, the VBC charge on a freestanding house will be \$440.00. This jumps by 19% to \$528.60 for a dual occupancy

²⁵³ Submission No. 97, Mr Jack Evans, p.4.

²⁵⁴ Submission No. 97, Mr Jack Evans, p.4.

²⁵⁵ Submission No. 97, Mr Jack Evans, p.4.

²⁵⁶ Submission No. 97, Mr Jack Evans, p.4.

²⁵⁷ Submission No. 97, Mr Jack Evans, p.4.

²⁵⁸ Submission No. 97, Mr Jack Evans, p.4.

property (DOP). Yet if the unit is part of a moderately sized complex of 10, the VBC charge leaps to be over 180% of the house's rate and over 150% of the DOP.²⁵⁹

5.116 However, it advised:

Should the unit be part of a complex of 50 units the VBC would be almost double that of the house and two thirds greater than that of the DOP.²⁶⁰

5.117 The submission advised that this showed 'how rapidly the average charge increases beyond the \$600,000 threshold, as a result of which 'a relatively modest unit, worth as little as \$300,000 within a strata property with an AUV of \$1 million', would 'pay the same VBC level of 0.5072% as a single multi-million dollar property with an AUV of \$1 million'.²⁶¹

5.118 The submission advised that this 'distortion hit 'hardest where there are relatively modest units, with relatively modest improved values, which are part of middle to large sized strata complexes':

For example in Landmark, a 282 unit property in Barton, a one bedroom unit with an AUV of \$108,360 faces a VBC of \$650.16 compared with a freestanding house with the same AUV having a VBC of \$320.75, ie the apartment's charge is more than double that of the house. Yet there is every likelihood that the improved value of the house would be at least comparable if not greater than that of the unit ...²⁶²

5.119 It was difficult, the submission advised, to reconcile this with 'the tests of fairness and equity ... articulated by the Chief Minister's Office' in defence of the new methodology.²⁶³

MR GARY PETHERBRIDGE

5.120 Mr Gary Petherbridge, when he appeared before the Committee in hearings of 11 July 2018, commented on perceived unfairness in rates for units and houses.

5.121 By way of illustration, he referred to 'a house in Ainslie advertised at \$1.9 million with an AUV of \$737,000', which would have 'a valuation-base charge of \$3,491 compared with a private apartment that has a marginally higher liability of \$3,527' but with 'an improved value of less than 80 per cent of the Ainslie property'.²⁶⁴

²⁵⁹ Submission No. 97, Mr Jack Evans, p.5.

²⁶⁰ Submission No. 97, Mr Jack Evans, p.5.

²⁶¹ Submission No. 97, Mr Jack Evans, p.6.

²⁶² Submission No. 97, Mr Jack Evans, p.6.

²⁶³ Submission No. 97, Mr Jack Evans, p.6.

²⁶⁴ Mr Gary Petherbridge, *Proof Transcript of Evidence*, 11 July 2018, pp.52-53.

5.122 This, he told the Committee, was one example of many in which ‘houses have significantly higher value but lower rates than the units of a similar value’.²⁶⁵

OTHER CONTRIBUTORS

5.123 Mr Dominic Alecci, in his submission to the inquiry, advised the Committee that:

Mr Barr’s office ... claims that the main purpose of the new formula was ‘to make unit investors pay Land Tax and Rates equal to house investors’. This violates the very purpose and spirit of Land Tax. Throughout Australia house investors have always paid more Land Tax because they have certain inherent rights which unit investors do not have. Such rights being: (1) to have their land in entirety; (2) to use their land as they see fit; (3) to subdivide their land; (4) to build on their land; (5) to develop their land; and, (6) to NOT have to pay costs such as Strata Levies.²⁶⁶

5.124 Ms Catherine Wallace, in her submission to the inquiry, noted ‘the issue of simple parity’, and asked:

Why should an ordinary ACT resident, owner of a single strata residence (not multiple properties) be treated differently to other ACT home owners simply on the basis of the type of home (strata unit vs free standing home on a single block)? In addition, why should all strata unit owners have their general rates and land taxes calculated on the basis of the highest rating tier factor, when different units have very different values, even within a single complex?²⁶⁷

5.125 Mr Philip Robertson, in his submission to the inquiry, advised the Committee that:

Since 2000 my rates have been based on a Residential AUV calculated by ACT Revenue Office. Up till 2017, the ACT Revenue Office took the total value of the complex and divided it by my “Unit Entitlement” (ie 69 Units or 6.9%) and this was the figure used to calculate the “Valuation Based Charge”. Until now, my “Residential AUV” has always fallen within the first tier (ie between \$1 and \$150,000).²⁶⁸

5.126 However, the submission advised:

In 2017 the Government made changes to this methodology as part of the ACT’s broader tax reform agenda and as a result of the new methodology my rates in

²⁶⁵ Mr Gary Petherbridge, *Proof Transcript of Evidence*, 11 July 2018, p.53.

²⁶⁶ Submission No. 13, Mr Dominic Alecci

²⁶⁷ Submission No. 46, Ms Catherine Wallace, pp.1-2.

²⁶⁸ Submission No. 12, Mr Philip Robertson.

2017/18 as a unit-titled residence increased by 47.29%, whereas my brother's rates for an adjoining non-unit-titled residential property increase by only 6.45%.²⁶⁹

5.127 Mr Philip Major, in his submission to the inquiry, advised the Committee that:

After purchasing my 2 bedroom townhouse, my rates have increased to a level almost equivalent to a 3 bedroom house in an adjacent suburb. The cost of living has constantly been going up for homeowners in Canberra and this rise in rates is substantial.²⁷⁰

ANOMALIES BETWEEN UNIT AND UNIT

5.128 A number of contributors to the inquiry put the view to the Committee that the new rates system had created anomalies between rates assessments for different units.

MR TED QUINLAN

5.129 In his submission to the inquiry, Mr Ted Quinlan advised the Committee that:

Inherent in the revised system is the creation of an inequity which penalises some owners within larger complexes compared to those in an establishment with a few individual units – all other things being equal.²⁷¹

5.130 The submission advised that:

Generally rating on individual premises incorporates a significant element of “progressive” taxation. Higher value properties incur higher total rates by virtue of the use of the particular land value and an escalating scale of multipliers being applied within the rating formula.²⁷²

5.131 Under this approach, the submission advised:

It is the “Unimproved Value” of land that is used as the base for rates assessment and it is also used to determine the applicable multiplier within the calculation. Owners are not penalised for improvements that they themselves have invested in, as they would be through the use of total property value as a base for rating purposes.²⁷³

²⁶⁹ Submission No. 12, Mr Philip Robertson.

²⁷⁰ Submission No. 90, Mr Philip Major

²⁷¹ Submission No. 33, Mr Ted Quinlan

²⁷² Submission No. 33, Mr Ted Quinlan

²⁷³ Submission No. 33, Mr Ted Quinlan

5.132 However, the submission advised, as a result of recent changes:

We now see in the rating process a distortion which effectively includes, for some, a randomising variable. That is the number of units in the overall complex. This comes about as the gross value of the land occupied has become the determinant of the rating multiplier, regardless of the average land value taken up by each unit - as was the case.²⁷⁴

5.133 The submission advised that as a result of this aspect of the changes in the rates system:

A number of complexes with modest individual unit values will have a premium rating factor applied in total rates determinations. Owners of units of completely similar value will be levied different rates.²⁷⁵

5.134 Mr Quinlan made comments consistent with these views when he appeared before the Committee in hearings of 13 June 2018.

5.135 He told the Committee that:

Simply put, what has happened is that rather than an average process that existed before per unit and valuation—the unimproved value being per unit and therefore setting a value on a given unit, and that value being the determinant of the multiplier in the variable portion of the formula—the system has changed so that the gross value of a set of units becomes a determinant of the multiplier.²⁷⁶

5.136 Mr Quinlan went on to say:

In fact, depending on the size of the complex—you could have two complexes cheek by jowl. One has very few units in it and one has many units in it. They are otherwise equal in every respect. Those two units will pay different rates by virtue of the way the formula will operate, given that the larger complex will have a gross value much higher. That will lift the indicator, the multiplier, in the variable portion of the rates.²⁷⁷

²⁷⁴ Submission No. 33, Mr Ted Quinlan

²⁷⁵ Submission No. 33, Mr Ted Quinlan

²⁷⁶ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.22.

²⁷⁷ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.22.

MR JACK EVANS

5.137 In his submission to the inquiry, Mr Jack Evans expressed concern regarding such anomalies.

5.138 The submission advised the Committee that a table included in the submission showed that 'for the same AUV, the amount of rates levied on a strata unit will be greater merely because a unit is part of a larger complex'.²⁷⁸

5.139 The submission also advised that:

A one bed, one bath, one car park unit in Landmark is liable to pay rates of \$1,823 pa, yet a two bed, two bath, two car park unit in a much smaller complex on the other side of Blackall Street only has a rate liability of \$1,536 despite being worth around 50% more than the smaller property.²⁷⁹

5.140 In light of this, the submission asked:

How can the government justify creating the circumstances where one unit is worth 50% more than the other but is required to pay less than 85% of the other unit's rates? How can that be fair or equitable?²⁸⁰

5.141 Mr Evans made statements consistent with this when he appeared before the Committee in hearings of 4 July 2018.²⁸¹

MS JANE GODTSCHALK

5.142 In her submission to the inquiry, Ms Jane Godtschalk advised that the 'impact of the changed methodology is greatest on the smallest and lowest-valued apartments'.²⁸²

5.143 The submission, and the examples included in the submission, concerned the 'Landmark multi-unit complex in Barton'. In this context, it advised that:

- A small one-bedroom apartment suffered a rates increase from 2016-17 to 2017-18 of 24.8% with an increase in the valuation-based component of 118.3%;

²⁷⁸ Submission No. 97, Mr Jack Evans, p.5.

²⁷⁹ Submission No. 97, Mr Jack Evans, pp.6-7.

²⁸⁰ Submission No. 97, Mr Jack Evans, p.7, citing www.allhomes.com.au, 4 March 2018.

²⁸¹ Mr Jack Evans, *Proof Transcript of Evidence*, 4 July 2018, pp.40, 42.

²⁸² Submission No. 20, Ms Jane Godtschalk, p.1.

- A two-bedroom apartment suffered a rates increase of 31.5% with an increase in the valuation-based component of 102.0%; and
- A large three-bedroom apartment suffered a rates increase of 28.6% with an increase in the valuation-based component of 41.1%.²⁸³

5.144 Regarding these examples, the submission advised that while ‘increases for households on individual residential blocks [had] been relatively modest’, there had been ‘a massive redistribution of the rates burden onto the owners of apartments (or townhouses) in multi-unit complexes from those on individual blocks’, and within ‘that redistribution’, there had been ‘an even more massive redistribution of the burden onto the smallest and least valuable apartments’, as demonstrated in the submission’s examples.²⁸⁴

5.145 Considering the matter in greater detail, the submission advised that:

The Landmark complex in Barton has an AUV of \$51,609,965, reflecting its size and location. However, it also has a large number of apartments: 282. The smallest of these apartments have a share of less than a quarter of one per cent of the overall value of the complex, and of its AUV for rating purposes. That is, they are entitled to less than one four-hundredth of the total value. Thus, their share of the total AUV is less than \$130,000.²⁸⁵

5.146 The submission stated that:

Until this year, they paid rates based on that AUV of less than \$150,000.

Now, by contrast, they pay rates based on the consolidated AUV for the complex which, under the new calculation methodology, means that every apartment pays the Valuation Based Charge at a rate of 0.6% (0.5995%).²⁸⁶

RECENT CHANGES TO HIGHEST AND LOWEST MARGINAL RATES

5.147 Changes to the highest and lowest marginal rates in the progressive scale for residential rates came into effect on 25 June 2018 with the notification of the Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1).²⁸⁷

²⁸³ Submission No. 20, Ms Jane Godtschalk, p.1.

²⁸⁴ Submission No. 20, Ms Jane Godtschalk, p.1.

²⁸⁵ Submission No. 20, Ms Jane Godtschalk, p.3.

²⁸⁶ Submission No. 20, Ms Jane Godtschalk, p.3.

²⁸⁷ See Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1), viewed 29 August 2018, available at: <https://www.legislation.act.gov.au/di/2018-172/>

5.148 These changes reduced the top marginal rate in the progressive scale, and increased the lowest marginal rate.

5.149 The previous top marginal rate for residential properties with a value of more than \$ 600,000 was '\$2 667.15 plus 0.6013% of the part of the base value that is more than \$600 000'.²⁸⁸

5.150 The current top marginal rate for such properties is '\$2 692.65 plus 0.5700% of the part of the base value that is more than \$600 000'.²⁸⁹

5.151 The previous lowest marginal rate, for properties 'less than or equal to \$150 000' in value was '0.2960% of the base value'.²⁹⁰

5.152 The current lowest marginal rate for such properties is '0.3130% of the base value'.²⁹¹

MR ROD MANN

5.153 When he appeared in hearings of 4 July 2018, Mr Rod Manns told the Committee that:

The government has, quite bizarrely, fiddled around with the marginal rates. It has increased the lowest marginal rate and decreased the highest marginal rate. The decrease in the highest marginal rate is obviously of benefit to unit owners because 95 per cent of them are now being hit by that rate.²⁹²

5.154 However, he told the Committee:

the unfortunate consequence is that the owners of the least value house blocks now have a higher increase in their rates than the owners of the highest value house blocks.²⁹³

5.155 As a result of these changes, he told the Committee:

I do not know whether you saw the Canberra Times publication of rate increases by suburb. The lowest increase in rates for houses is in Forrest, at 0.7 per cent. In fact,

²⁸⁸ Table 1, Taxation Administration (Amounts Payable—Rates) Determination 2017 (No 1) Disallowable instrument DI2017–142, viewed 21 August 2018, available at: <https://www.legislation.act.gov.au/View/di/2017-142/20170701-66511/PDF/2017-142.PDF>

²⁸⁹ Table 1, Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1), Disallowable instrument DI2018–172, notified 25 June 2018, viewed 21 August 2018, available at: <https://www.legislation.act.gov.au/View/di/2018-172/current/PDF/2018-172.PDF>

²⁹⁰ Table 1, Taxation Administration (Amounts Payable—Rates) Determination 2017 (No 1).

²⁹¹ Table 1, Taxation Administration (Amounts Payable—Rates) Determination 2018 (No 1).

²⁹² Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.28.

²⁹³ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, pp.28-29.

some of those properties will actually have a decrease in their rates for the coming year as a result of this change. Ordinary suburbs like Giralang, for example, are having an increase of around eight or nine per cent. It is a completely nonsensical approach.²⁹⁴

5.156 Mr Manns told the Committee that while this did ‘give some benefit to unit owners, because now 95 per cent of them are being hit by that rate’, it also meant that for stand-alone dwellings ‘the biggest, most expensive blocks of land, which have the majority of their rates calculated also at that higher rate, are actually seeing a reduction’.²⁹⁵

MR JACK EVANS

5.157 When he appeared in hearings of 4 July 2018, Mr Jack Evans told the Committee that this year’s budget was ‘as close as you will get to an admission out of the government that they got it wrong 12 months ago’.²⁹⁶

5.158 He told the Committee that the ‘reduction from 0.6013 in the top rate down to 0.57 [did] have a major impact on the large complex issue, but [did] not remove the problem’, and that the only way to ‘remove the problem’ was to ‘eliminate the tiered levels of AUV values’ or ‘just have a single rate’.²⁹⁷

5.159 Mr Evans told the Committee that the ‘methodology under which the valuation-based charge is determined for strata properties’ had ‘a fundamental flaw’, and while these changes to marginal rates ‘go somewhat towards reducing ... most of the problems’ they did not ‘eliminate them’. He told the Committee that he did not see how they could be eliminated ‘short of the ACT adopting a single valuation-based charge’.²⁹⁸

CAPACITY TO PAY

5.160 Contributors to the inquiry expressed concern at whether people subject to increases in rates liabilities, and their flow-on effects, had the capacity to meet these additional charges.

²⁹⁴ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, pp.28-29.

²⁹⁵ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.30.

²⁹⁶ Mr Jack Evans, *Proof Transcript of Evidence*, 4 July 2018, p.40.

²⁹⁷ Mr Jack Evans, *Proof Transcript of Evidence*, 4 July 2018, p.40.

²⁹⁸ Mr Jack Evans, *Proof Transcript of Evidence*, 4 July 2018, p.40.

MR GARY PETHERBRIDGE

5.161 When he appeared in hearings of 11 July 2018, Mr Gary Petherbridge spoke about the capacity to meet additional charges.

5.162 He told the Committee that while ‘the government [had] accepted that there was a problem with these rates by reducing that scale’, the:

problem is still there for people in one-bedroom apartments—often the poorer people, if I could put it that way—and smaller two-bedroom apartments where there might be families.²⁹⁹

5.163 He told the Committee that:

Those apartments are often rented—one-bedroom and two-bedroom apartments probably have the greatest number of renters, so they are the ones most affected. They tend to be at the lower end of the economic scale, if you like.³⁰⁰

5.164 He told the Committee:

The people who cannot afford it are the people I just spoke about it. They cannot afford a 109 per cent increase in [the variable component of] their rates in one year. That is pretty obvious, I think.³⁰¹

5.165 Mr Petherbridge noted concerns voiced about increases in health and energy costs, but told the Committee that increases for residential rates in Canberra were ‘10 times more than the increases in energy or health costs over the last 12 months’.³⁰²

5.166 He also told the Committee that while ‘parts of the government have said that a very, very small number of places have been affected’, the Owners Corporation Network considered that it was ‘something like 29,000’, and that this was ‘not a small number’.³⁰³

A SUBMITTER

5.167 In a submission to the inquiry, a submitter who asked not to be named advised the Committee that the changes in methodology had:

²⁹⁹ Mr Gary Petherbridge, *Transcript of Evidence*, 11 July 2018, p.49.

³⁰⁰ Mr Gary Petherbridge, *Transcript of Evidence*, 11 July 2018, p.49.

³⁰¹ Mr Gary Petherbridge, *Transcript of Evidence*, 11 July 2018, p.49.

³⁰² Mr Gary Petherbridge, *Transcript of Evidence*, 11 July 2018, p.49.

³⁰³ Mr Gary Petherbridge, *Transcript of Evidence*, 11 July 2018, p.48.

created massive inequality and financial disadvantage for all strata unit owners, the majority of whom are average working people who are struggling to meet increased costs of all necessities (gas, electricity, water, health care, child care, food and other services) at a time when wages growth is at its lowest in Australia's history.³⁰⁴

5.168 When the submitter appeared in hearings of 8 August 2018 the submitter was asked as to the impact of the increases in rates for herself and other unit owners.³⁰⁵

5.169 In responding to the questions, the submitter told the Committee that:

After here, I am going to my health benefit fund and I am going to have to downgrade my health cover. I have top cover; I have always had top cover. It costs me the equivalent of my rates and my body corporate fees a year. That is \$8,000 before I even start looking at any other costs. I will be downgrading my health care and so will my husband. All these increases get passed on in terms of rent increases.³⁰⁶

5.170 In light of this, the submitter told the Committee the changes were:

not just affecting the home owners; you are affecting tenants, a whole pile of tenants. In my particular block, we have teachers, nurses and all of the people the Labor government say they will protect. It is just not happening for us.³⁰⁷

MR R O'CONNELL

5.171 In his submission to the inquiry, Mr R O'Connell advised the Committee that:

We contend that the new rates calculation principles and methodology are seriously flawed. The impact of the increases is to seriously disadvantage strata unit owners, many of whom are retired, have reduced and limited incomes and accordingly have downsized from larger properties in order to decrease their cost of living and continue to rely on their own resources. They paid full stamp duty to do this.³⁰⁸

5.172 The submission also advised the Committee that:

The Owners Corporation notes that the significant increases to rates add to the costs of living of owners of townhouses. This in turn has a negative impact in the context of the economic and social, and therefore political, issue of housing affordability. Housing

³⁰⁴ Submission No. 96, [Name withheld], p.7.

³⁰⁵ *Proof Transcript of Evidence*, 8 August 2018, p.81.

³⁰⁶ *Proof Transcript of Evidence*, 8 August 2018, p.81.

³⁰⁷ *Proof Transcript of Evidence*, 8 August 2018, p.81.

³⁰⁸ Submission No. 59, R O'Connell.

affordability is not just an issue for younger citizens and first home buyers; it is also an issue for older citizens who manage on reduced incomes.³⁰⁹

MR PHILLIP BARON

5.173 In his submission to the inquiry, Mr Phillip Baron advised the Committee that:

It should be recognised that increases in the cost living by a 30% increase in total rates assessment is unacceptable, particularly for those who can't afford to pay, such as pensioners.³¹⁰

5.174 When he appeared in hearings of 13 June 2018, Mr Baron told the Committee that while the impact of the changes was 'not huge' for him personally because he was 'a reasonably well-off self-funded retiree', there were 'quite a few pensioners in our complex' for whom a '30 per cent increase' had 'a frightening impact' because they subsisted on 'minimal money'.³¹¹

MS EMMA JACKMAN

5.175 In her submission to the inquiry, Ms Emma Jackman advised the Committee:

The cost of living in Canberra is already high, we have a Government that allows for unscrupulous developers to rule the property market, creating poor quality developments which buyers end up paying for in rectifications. My body corporate levies have risen around 30% in just 3 years in order to cover significant building defects (that we will never be successful in pursuing from the builder as there is no real means to hold them to account as many builders deny responsibility and will never come to the party). On top of this, electricity, gas and water have all had increases, and my unit value has also drop since I purchased off the plan in 2012 and I simply cannot recoup the money I've lost through my property.³¹²

5.176 The submission advised the Committee that:

As a single person on a reasonable income, I'm am stunned to find I'm only just covering all my costs and lucky enough to not be going into debt, however these rate increases will now mean I'll have to make provisions to cover my basic living costs.³¹³

³⁰⁹ Submission No. 59, Mr R O'Connell.

³¹⁰ Submission No. 11, Mr Phillip Baron, p.2.

³¹¹ Mr Phillip Baron, *Transcript of Evidence*, 13June 2018, p.2.

³¹² Submission No. 52, Ms Emma Jackman.

³¹³ Submission No. 52, Ms Emma Jackman.

5.177 This, the submission advised, would be done:

by reducing insurances, placing more burden on public health services. Cutting back on simple pleasures, impacting local business. And ultimately reconsidering my future in Canberra as the rates for a single person in a tiny apartment is as much as a house in other locations.³¹⁴

5.178 The submission advised that:

With little movement in salaries, I believe there will be a real impact across the Territory in personal expenditure that will have an overall impact on the economy.³¹⁵

5.179 In light of these concerns, the submission advised the Committee:

I strongly believe the new methodology for calculating rates is extremely unfair. It impacts the vulnerable significantly. I would love a house, as many would, but the only way to own my own home was to buy a unit, as it was more affordable for me. Now I feel that the Government is placing the least likely to afford rates increases in a frightening position, and as a small unit owner in a large complex, I'm now subsidising free-standing home owners for their municipal infrastructure. I don't even benefit from transport improvements, meaning I will continue to use my car daily costing me money and polluting the environment.³¹⁶

MR PETER AND MRS THELMA TOKESI

5.180 Mr Peter and Mrs Thelma Tokesi, in their submission to the inquiry, advised the Committee that:

We chose to live in a unit in Kingston because the rates and body corp fees were within our budget. We live on a self funded pension. The over \$600 rate rise in one year was firstly a surprise, secondly a shock, and thirdly exceptionally unreasonable... a methodology that would be hard to comprehend as reasonable.³¹⁷

5.181 The submission advised the Committee that:

This rate rise is a huge financial burden, and we know of many other residents in the same building who were astounded and anxious, many of whom have downsized from

³¹⁴ Submission No. 52, Ms Emma Jackman.

³¹⁵ Submission No. 52, Ms Emma Jackman.

³¹⁶ Submission No. 52, Ms Emma Jackman.

³¹⁷ Submission No. 18, Mr Peter and Mrs Thelma Tokesi.

houses to keep cost down in senior years. Coupled with the ever increasing electricity costs one wonders how seniors and young families cope.³¹⁸

MR JOHN FLETCHER

5.182 Mr John Fletcher, in his submission to the inquiry, advised the Committee that:

We (my wife and I) are self-funded retirees on a modest income (less [than] \$55,000 pa) and such a change will further reduce our available cash and standard of living, on top of the proposed axing of our tax refund arising from dividend imputation. We had a small part-pension which we 'lost' last year due to the income test changes but more importantly we lost the benefits and specifically the medical benefits. To get these benefits back we are forced to be profligate and spend our savings on non-essentials to get back medical benefits, rates and other reductions.³¹⁹

5.183 The submission advised that:

We are aware that all government costs (mandate or no mandate) have to be paid for but we believe that pensioners who are perceived to have non-taxable superannuation and therefore a bottomless pit of funds should not be penalised at every opportunity.³²⁰

OTHER CONTRIBUTORS

5.184 Other contributors expressed concern about the increase in rates liabilities and persons' capacity to pay.

5.185 In his submission to the inquiry, Mr Paul Harris advised the Committee that:

Our rates (1/07/2017 to 30/06/2018) were \$1368.56. The previous year we paid \$841.19. (For both years we received pensioner rebate.) This is a 62.7% increase. I am 78 and my wife is 89. We live a modest lifestyle on part pension plus some basic superannuation. Our apartment is the only property we own and we have some modest savings (we were both school teachers before we retired). My wife is in the early stages of dementia. The increase of 62.7% in our last rates payment is pretty outrageous. To propose a further increase this year is unconscionable.³²¹

³¹⁸ Submission No. 18, Mr Peter and Mrs Thelma Tokesi.

³¹⁹ Submission No. 79, Mr John Fletcher, lodged via the *Haveyoursay* website.

³²⁰ Submission No. 79, Mr John Fletcher, lodged via the *Haveyoursay* website.

³²¹ Submission No. 23, Mr Paul Harris, lodged via *Haveyoursay*.

5.186 In their submission to the inquiry Fay and Laurence Thwaites advised the Committee:

My husband and I are self funded retirees. We don't have a large income. We neither have a pension nor a part pension nor do we have a Seniors Health card. We are finding living costs are causing us mental stress. We worry constantly - water, electricity, land rates, insurances and vehicle registration, etc.³²²

5.187 In her submission to the inquiry, Ms Shirley Cummings advised the Committee:

The excessive increase to strata rates has impacted severely on my quality of life. I am existing on the war widow's pension at the advanced age of 91 and coming to Canberra in the 1930's I did not expect that at the end of my life, living in this city would be so difficult. Because of the increase I am forced to cut back on other expenses such as heating, cooling and food.³²³

5.188 In his submission to the inquiry, Mr Simon Greig advised the Committee that changes to the rates system had resulted in a '[n]ear doubling of rates within 5 years', and that a combination of high body corporate fees, water and sewerage charges, higher costs for gas and electricity had resulted in a '[d]ecline in livability. The submission advised that '[s]ignificantly increased population pressures', 'traffic congestion' and 'high living expenses' amounted to 'paying more for a decline in [livability] and that other places were 'becoming more attractive'.³²⁴

5.189 Mr Adrian Fitzpatrick, in his submission to the inquiry, advised that the changes would 'make living unaffordable':

I bought my first ever home, a two bedroom apartment, not to be paying rent. With these holes in rates, I feel like I'm a renter all over again. ... The current government had flooded the market with apartments. Apartment prices have not appreciated. In many instances they've depreciated. How then can the Barr Government justify increasing rates and land tax for strata residences? It's a totally unfair and mistargeted way to raise revenue!! I'm bloody angry about this.³²⁵

5.190 In his submission to the inquiry, Mr Peter Davies advised the Committee:

Waterfront Apartments (Waterfront) is a large apartment complex situated at the Kingston Foreshore, consisting of 104 apartments. It has a significant number of owner occupiers – more than 70% – many who are retired and on fixed incomes. Having purchased in the complex up to 11 years ago (when the complex was completed) the

³²² Submission No. 27, Fay and Laurence Thwaites, lodged via *Haveyoursay*.

³²³ Submission No. 41, Ms Shirley Cummings, lodged via *Haveyoursay*.

³²⁴ Submission No. 69, Mr Simon Greig, lodged via *Haveyoursay*.

³²⁵ Submission No. 92, Mr Adrian Fitzpatrick, lodged via *Haveyoursay*.

owners have paid significant amounts in Stamp Duty, as was required by the legislation. They are now being hit hard – the proverbial double-whammy – as the ACT Government looks at reducing its reliance on Stamp Duty as a substantial source of funds for its budgets.³²⁶

HAVE LAND VALUES INCREASED?

5.191 Contributors to the inquiry considered whether land values had increased and whether this provided a basis for the ACT government to increase revenue collection in relation to such land. They also considered whether an increase in land values would offset increased costs in rates and land tax.

MR PHILLIP BARON

5.192 When he appeared in hearings of 13 June 2018, Mr Phillip Baron was asked whether there had been a 30 per cent increase in the value of the parcel of land on which his unit was situated, commensurate with increases to the Valuation Based Charge component for rates.³²⁷

5.193 In responding, Mr Baron told the Committee that there had not been an increase in value to that degree. He had purchased his unit for \$315,000 and it was likely to be valued, at time of hearings, ‘in the order of’ \$500,000 to \$550,000.³²⁸

5.194 However, when asked whether there had been a change in the AUV (Average Unimproved Value) for the complex over the previous two financial years, 2016-17 and 2017-18, for which rates liabilities were quoted in his submission,³²⁹ Mr Baron advised that there had not been any significant increase in value over that period.³³⁰

5.195 In fact, Mr Baron told the Committee, unit values were ‘about the same as what they were in 2008 as far as the market indicators are concerned’, and had not ‘gone up significantly in almost 10 years’.³³¹

³²⁶ Submission No. 62, Mr Peter Davies, p.1.

³²⁷ *Transcript of Evidence*, 13 June 2018, p.4.

³²⁸ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.4.

³²⁹ Submission No. 11 – Mr Phillip Baron.

³³⁰ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.5.

³³¹ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.5.

5.196 When asked to elaborate on this, Mr Baron told the Committee that:

The market suggests that the price of a unit, particularly a high-rise unit, has not changed since 2008, they are static, and that is largely due to the huge number of high rises that have gone up in the ACT in the last 10 years, I would imagine. That was just in the news and various financial reports I have read. They may have gone up some, but not significantly.³³²

MR ANDREW SUTTON

5.197 In his submission to the inquiry, Mr Andrew Sutton advised the Committee that:

Our residential property which we have owned since 1999, has seen our general rates increase on average at approximately 13% (65% over 5 years) as well as seeing the Fire and Emergency Levy increase 180% over the same period, while our Unimproved Land Value has increased just over 4% per annum (21.1% over the last 5 years).³³³

OBJECTIONS TO 'RETROSPECTIVITY'

5.198 Contributors to the inquiry stated their objections to what were perceived to be a 'retrospective' character for changes to the rates system.

5.199 Mr R O'Connell, in his submission to the inquiry, advised the Committee that, in purchasing strata units, 'these home owners have made deliberate decisions to acquire smaller size properties, expecting that the levying of rates and taxes would remain in line with the smaller property size', and that as a result this was 'in effect a retrospective tax'.³³⁴

5.200 Mr Phillip Baron, when he appeared in hearings of 13 June 2018, told the Committee that he objected to 'this sudden, complete change of formula', which was 'basically a retrospective change'. It was similar to making 'retrospective changes to superannuation and so on', in the sense that people planned 'their lives around a certain set of formulae' and then 'the goalposts are shifted'.³³⁵

5.201 Ms Melita Dahl, in her submission to the inquiry, advised the Committee that in purchasing her property she had 'paid full stamp duty'; had 'bought a strata residence on the basis of a long-established system where general rates were impartially calculated according to the

³³² Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.5.

³³³ Submission No. 21, Mr Andrew Sutton.

³³⁴ Submission No. 59, R O'Connell.

³³⁵ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.6.

unimproved value of a unit entitlement’; and asked the government to reverse the change in methodology.³³⁶

5.202 A number of other contributors expressed concern at what they perceived as the retrospective character of changes to the methodology; result questioned whether the changes constituted retrospective legislation; and as a result questioned whether they were legally permissible.³³⁷

COMMITTEE COMMENT

5.203 Contributors considered in this chapter put the view that:

- the former methodology for determining rates and land tax for unit titled properties provided fairer outcomes than the methodology introduced on 1 July 2017;
- access to the progressive scale of marginal rates for rates and land tax for unit titled properties had been reduced by the change in methodology;
- the new methodology, introduced 1 July 2017, had resulted in significant anomalies — between houses and units, and between units and other units — in rates and land tax;
- a recent changes in the highest and lowest marginal rates in the progressive scale for general rates reduced the degree to which the current rates and land tax system could be considered fair, and was an admission that the system was not working effectively;
- a number of people — in particular retired owner-occupiers and residential investors — did not have the financial capacity to pay the increases rates and land tax brought about by the 2017 change in methodology;
- there were strong concerns as to what was perceived as the ‘retrospectivity’ of the 2017 change in methodology, which was the term contributors used to convey their concern that they had arranged their finances on the basis of one rates and land tax system but found themselves dealing with another, with different financial implications; and that
- increases in rates and land tax as a result of the change in methodology could not be recovered through capital gain as many unit titled properties had not experience increases in value over the past two years, which was attributed to an expansion in the supply of unit title properties fostered by the ACT government.

³³⁶ Submission No. 56, Ms Melita Dahl, p.3.

³³⁷ See: Submission No. 55, Ms Frances Davies, p.3; Submission No. 5, Mr Tim Dunnet; Submission No. 58, Mr Graeme Norris; Submission No. 6, Mr Peter and Mrs Carol Dunnet; Submission No. 59, R O’Connell; Submission No. 22, Ms Terrie Lendon; and Submission No. 48, Ms Susan Fowle.

- 5.204 In consideration of the consistency of the views expressed by contributors, the overwhelming majority of whom were ratepayers and persons liable for land tax, the Committee considers it important that be taken seriously.
- 5.205 It is evident from any reading of these contributions that there is considerable distress in the ACT community regarding the effect of the 2017 change in methodology for determining rates and land tax.
- 5.206 In general, the overwhelming view of contributors to the inquiry is that the changed methodology is not fair, and that it has brought considerable financial uncertainty and hardship to the rate-paying community.
- 5.207 In specific terms, the contributions considered in this chapter do not agree with the statements made by the ACT government that the new methodology serves the imperative of increasing equity and fairness.
- 5.208 The element of the current methodology which attracts the greatest concern from contributors is the 2017 which saw the value of all units on a parcel of land expressed in aggregate before a unit entitlement was determined for each unit, thus placing all units at the top marginal rate of the progressive scale.
- 5.209 This, in the view of the Committee, appears to be an inelegant response to a perceived disparity in revenue from units and free-standing houses.
- 5.210 In light of this, the Committee makes the following recommendation.³³⁸

Recommendation 2

The Committee recommends that the ACT government devise a new method for determining rates and land tax for unit title properties.

³³⁸ Mr Coe and Mrs Dunne voted for the following recommendation to be included in the report: *The Committee recommends that the ACT government reverse its decision to change rates and land tax calculations for units and then develop and publish an options paper for possible future changes.*

6 INCREASES TO RATES AND LAND TAX

INTRODUCTION

- 6.1 This chapter considers contributions to the inquiry regarding increases to rates and land tax which have resulted from the change in methodology.
- 6.2 It considers:
- the degree to which rates have increased and the effect of these increases;
 - the degree to which land tax has increased and the effect of these increases;
 - the effect of these increases on rents, including their effect on residential investors and renters;
 - perceptions of legal restrictions on landlords increasing rents; and
 - effects on investment in residential property.
- 6.3 These are considered below.

INCREASES IN RATES

- 6.4 A number of contributors to the inquiry detailed their experience of increases in rates as a result of the change in methodology.

MS MELITA DAHL

- 6.5 In her submission to the inquiry, Ms Melita Dahl advised the Committee:

I purchased my first home in May 2015. As a sole parent, I was fortunate to secure an affordable house in my preferred suburb of Cook. In order to secure an affordable option in Cook, I had to purchase a strata-titled residence.³³⁹

- 6.6 In her submission, Ms Dahl advised that her 'final decision to buy into a strata title was based on offsetting the high ongoing strata levies with slightly more affordable general rates'.³⁴⁰

³³⁹ Submission No. 56, Ms Melita Dahl, p.1.

³⁴⁰ Submission No. 56, Ms Melita Dahl, p.1.

6.7 The submission advised that as ‘the residence was built in 1977’, she ‘was not eligible for a first-home buyer’s grant’, and she had also ‘paid full stamp duty’.³⁴¹

6.8 However, the submission advised:

In July 2017, I was shocked to see that my rates had increased by 32 per cent from the previous year—\$494 in dollar terms—and later learned that the rates for this property had doubled in a five-year period.³⁴²

6.9 Under the present rates system, the submission advised ‘81.8 per cent of my rates are calculated at the highest marginal rate’, which amounted to ‘a 32 per cent increase in one year alone’.³⁴³

6.10 The submission advised that:

Although it was noted in the budget that increased rates for strata residences would be phased in in July 2017, with an estimated average increase of \$1504 per unit, this differs greatly to the actual \$494 increase I now pay.³⁴⁴

6.11 ‘In addition’, the submission advised, ‘a jump in 32 per cent ... does not constitute a phasing in’.³⁴⁵

6.12 The submission advised that she was:

now nervous to see what my next year’s rates increase will be, as I have not been provided with a clear answer, even though I have been advised that the rise “will only add a further amount of around \$115 for units only due to the removal of the last year’s one-off rebate.”³⁴⁶

MR GARY JOBSON

6.13 In his submission to the inquiry, Mr Gary Jobson advised the Committee:

I live in a unit plan townhouse development (UP 768) which has 46 units in the Tuggeranong suburb of Monash. The residents and I have noted from our 2017 rates

³⁴¹ Submission No. 56, Ms Melita Dahl, p.1.

³⁴² Submission No. 56, Ms Melita Dahl, p.1.

³⁴³ Submission No. 56, Ms Melita Dahl, p.2.

³⁴⁴ Submission No. 56, Ms Melita Dahl, p.2.

³⁴⁵ Submission No. 56, Ms Melita Dahl, p.2.

³⁴⁶ Submission No. 56, Ms Melita Dahl, p.2.

notice there has been a dramatic increase in our land rates for 2017/18 and into the future.³⁴⁷

6.14 The submission advised that:

Within my complex, the negative effect of this recent impost has been noted and commented on by the majority of residents, many of whom are self-funded retirees and or/pension recipients.³⁴⁸

6.15 The submission advised that:

By far the largest contributor to the increased Rates Assessment for 2017/18 is the change in the formula for calculating the 'Valuation Based Charge' (VBC). The valuation-based charge is now calculated on the Average Unimproved Value (AUV) of the residential portion of my total unit complex (valued at \$5,351,000.00). The valuation-based charge is then divided using the residential unit entitlement. This change to the formula has pushed the residential AUV for this modest complex almost entirely into the highest marginal rate factor of 0.6013%.³⁴⁹

6.16 The submission advised that the 'net effect' of this was 'to increase the VBC for my unit, as an example, by 113% and the total Rates Assessment by 30% when compared to the last assessment 2016/17'.³⁵⁰

6.17 The submission advised that this 'increase in total Rates Assessment [was] variable and [depended] on the value of the land under the total unit complex compared to the number of units in the plan', but for 'some complexes the total Rates Assessment may increase by 50% or more'.³⁵¹

MR PHILLIP BARON

6.18 In his submission to the inquiry, Mr Phillip Baron advised the Committee that he lived in 'a modest unit plan 'Federation Park' UP 768, which has 46 units in the southern ACT suburb of Monash;, and that the 'residents and I have noted from our 2017 rates notice there has been a dramatic increase in our land rates for 2017/18 and into the future'.³⁵²

³⁴⁷ Submission No. 24, Mr Gary Jobson, p.1.

³⁴⁸ Submission No. 24, Mr Gary Jobson, p.1.

³⁴⁹ Submission No. 24, Mr Gary Jobson, p.1.

³⁵⁰ Submission No. 24, Mr Gary Jobson, pp.1-2.

³⁵¹ Submission No. 24, Mr Gary Jobson, p.2.

³⁵² Submission No. 11, Mr Phillip Baron, p.1.

6.19 The submission advised that:

By far the largest contributor to the increased Rates Assessment for 2017/18 is the change in the formula for calculating the 'Valuation Based Charge' (VBC). The valuation based charge is now calculated on the Average Unimproved Value (AUV) of the residential portion of the total unit complex (valued at \$5,351,000.00). The valuation based charge is then divided using the residential unit entitlement. (see attached table for current and previous VBC calculations).³⁵³

6.20 The submission advised that:

This change to the formula has pushed the residential AUV for this modest complex almost entirely into the highest marginal rate factor of 0.6013%. The net effect is to increase the VBC for my unit as an example by 113% and the total Rates Assessment by 30% when compared to the last assessment 2016/17.³⁵⁴

6.21 However, the submission advised, the 'increase in total Rates Assessment is variable and depends on the value of the land under the total unit complex compared to the number of units in the plan', and as a result, for 'some complexes the total Rates Assessment may increase by 50% or more'. 'For a detached house', on the other hand, 'the total Rates Assessment increase [was] only around 5% for 2017/18'.³⁵⁵

ROGER NEIL SMITH AND DIANA RUTH SMITH

6.22 In their submission to the inquiry, Roger Neil Smith and Diana Ruth Smith advised the Committee that:

The change has resulted in an increase by 117% in the valuation based charge proportion of my annual rates in 2017/18, with other charges and levies either remaining the same or increasing at the same rate applying territory wide. This is an outrageous and unprecedented money grab applying to all apartment owners without any reasonable rationale or consultation.³⁵⁶

6.23 The submission advised that:

As a retired person my pension increases annually by CPI which this year has been only 2.9% A local government increase in cost of living of this proportion on retirees, and

³⁵³ Submission No. 11, Mr Phillip Baron, p.1.

³⁵⁴ Submission No. 11, Mr Phillip Baron, p.1.

³⁵⁵ Submission No. 11, Mr Phillip Baron, p.1.

³⁵⁶ Submission No. 57, Roger Neil Smith and Diana Ruth Smith, via *Haveyoursay*.

young families and single persons, who are the main residents of apartments such as ours is unconscionable.³⁵⁷

OTHER CONTRIBUTORS

- 6.24 Other contributors made comment on rates increases.
- 6.25 Ms Jane Godtschalk advised in her submission that rates had increased in 2017-18, 'as they generally do each year', but that this had had 'only a minor effect compared with the impact of the changed methodology'.³⁵⁸
- 6.26 Mr David King advised in his submission that, in his case, 'the overall effect has been fairly modest in 2017-18, about \$330, an increase of about 25 per cent on the previous year'. The submission advised that most of this amount, 'about \$300', was 'due to the change in the valuation-based charge, and that the 'valuation-based component of my rates more than doubled', amounting to 'a 212 per cent increase'. It was also noted that rates charges for the submitter would be 'at least \$100 higher next year due to the removal of the \$100 rebate for units'.³⁵⁹
- 6.27 Mr Peter Davies, in his submission, provided examples of rates for unit titled properties at Waterfront Apartments at Kingston Foreshore, which showed that rates had increased for 'two bed plus study' from 2014-15 to 2017-18 of 56%, and for a penthouse of 59% over the same period.³⁶⁰
- 6.28 Ms Robyn Rofe advised that for five properties provided as examples in her submission, rates had increased from 2014/2015 to 2017/2018 'between 42% and 60%'. In particular, it stated that rates 'from 16/17 to 17/18 have increased by between 15.66% to 28.59%', which was 'a big increase from each of the previous 3 years', and that this was 'attributed solely to the new rating system the ACT Government has introduced for the 2017/18 year'.³⁶¹

³⁵⁷ Submission No. 57, Roger Neil Smith and Diana Ruth Smith, via *Haveyoursay*.

³⁵⁸ Submission No. 20, Ms Jane Godtschalk, p.1.

³⁵⁹ Submission No. 63, Mr David King, p.1.

³⁶⁰ Submission No. 62, Mr Peter Davies.

³⁶¹ Submission No. 32, Ms Robyn Rofe.

BROADER CONSEQUENCES OF INCREASES IN LAND TAX

- 6.29 In the ACT, investors who rent out their properties pay both rates and land tax. To this point, this report has considered the effect of changes on residential rates, however recent changes have also affected the methodology for determining land tax in the ACT.
- 6.30 Contributors made comment on the broader consequences of the changes, and these are considered below.

PETER AND CAROL DUNNET

- 6.31 In their submission to the inquiry, Mr Peter and Mrs Carol Dunnet advised the Committee that:

My wife and myself are self funded retirees. We were a bit late for the super-club and invested in property for our retirement. It has taken many years to pay these properties off. It didn't just happen. It took planning, some sacrifice and with three boys growing up we had to live within our budget.³⁶²

- 6.32 The submission advised that:

We are the owners of two serviced apartments at Manuka and one town house at Phillip. There have been large increases since 2012 in rates and a huge 60% increase in land tax on these dwellings, particularly in the past year. As we have already paid stamp duty on these purchases it is grossly unfair to expect us to incur such big increases in these taxes.³⁶³

- 6.33 The submission advised that:

We cannot recover these huge increases from tenants. It is [ridiculous] to even suggest it. Therefore retiree owners have to find the extra money for these increases. It can only come from two sources: a) other savings or b) from the monthly property income meant to be used for retirement. People like us who have lived in the ACT all of their adult life, worked here, brought up children here and retired here, providing for their retirement by investing in property which as we know also helps the government provide much needed accommodation, thinking they would be comfortable, now have to scrimp and cut out small luxuries to make ends meet.³⁶⁴

³⁶² Submission No. 6, Mr Peter and Mrs Carol Dunnet.

³⁶³ Submission No. 6, Mr Peter and Mrs Carol Dunnet.

³⁶⁴ Submission No. 6, Mr Peter and Mrs Carol Dunnet.

6.34 The submission advised that:

The increases in electricity and gas as well as rates and land tax are making it very difficult for people on fixed incomes, who get no Government handouts because they have lived within their means and invested wisely. We are the ones who are just above the pension line. If this continues in the ACT, the government will be needing to support more pensioners!³⁶⁵

6.35 The submission also advised that:

We have to find an extra \$1800 per unit per annum or \$90 a week extra (over what we already [paid] in 2015-2016 tax year) for these increases, not including of course, rises in electricity and gas. We are not affluent investors, but Mum and Dad investors who are no burden on the Government ...³⁶⁶

6.36 Mr and Mrs Dunnet also appeared in hearings on 18 June 2018.

6.37 In response to questions regarding the effect of the changes in rates and land tax on their financial circumstances, Mr Dunnet told the Committee that:

We fall into a net taxable income bracket of about \$50,000. It used to be about \$60,000. We're now getting down to \$50,000. If you split that both ways, we are in a position individually where we are basically below the threshold and any further charges we incur simply come off our net income. We drift from \$60,000 to \$50,000.³⁶⁷

6.38 As a result of this, Mr Dunnet agreed, he and his wife were paying a low rate of income tax, with the consequence that any income tax deduction with respect to rates and land tax had only a minor effect.³⁶⁸

6.39 Mr Dunnet told the Committee that:

Five years ago we were in a higher bracket. We might have been at \$70,000 or \$80,000 as a net combined income. We do not know whether it is because there are more properties available for rent. I have my Excel spreadsheet, which I do not think you have. Just on the one property at Manuka Park—these are from our tax return results; they are extracted figures—in the 2013-14 tax year our net income on this one-bedroom unit was \$16,346.³⁶⁹

³⁶⁵ Submission No. 6, Mr Peter and Mrs Carol Dunnet.

³⁶⁶ Submission No. 6, Mr Peter and Mrs Carol Dunnet.

³⁶⁷ Mr Peter Dunnet, *Transcript of Evidence*, 18 June 2018, p.9.

³⁶⁸ Mr Peter Dunnet, *Transcript of Evidence*, 18 June 2018, p.9.

³⁶⁹ Mr Peter Dunnet, *Transcript of Evidence*, 18 June 2018, p.9.

6.40 He told the Committee that:

in the 2017-18 tax year it will be \$13,335, a decrease of \$3,011. Our rates and land tax, between 2013-14 and 2017-18, will have gone up \$2,765. That is a break-up of \$863 in rates and \$1,902 in land tax.³⁷⁰

6.41 He told the Committee:

I know that we are responsible for whatever property we buy. We have to wear the fact if people do not come and rent in Manuka, which is about the best place to have a unit. Lots of parliamentarians stay there. This simply shows that we have suffered a loss of \$3,000 in rent and paid \$2,765 in rates and land tax. So there is a net differential of \$5,700 to \$5,800 just on the one property. That is why we have drifted downhill.³⁷¹

MR JACK EVANS

6.42 In his submission to the inquiry, Mr Jack Evans advised that what he considered 'disproportionate, unjustified increase in charges on those owning modest units in middle to large strata complexes'³⁷² would have three significant impacts:

1. Depress the value of these units relative to equivalent units in smaller complexes and to freestanding houses
2. Increase the financial pressure on many owner/occupiers who are least able to meet these higher charges, particularly those who are new home owners
3. Add to the costs of investors who are faced with the alternatives of:
 - a) seeking to pass on these costs to their tenants as higher rents,
 - b) absorbing these costs thereby reduced their return, or
 - c) exiting the investment.³⁷³

6.43 In light of this, the submission noted that 'Canberra already [had] the second highest strata rents in Australia', and asked whether the changes to the methodology could be 'the catalyst to push ACT unit rental levels past Sydney to be the highest in the country'.³⁷⁴

³⁷⁰ Mr Peter Dunnet, *Transcript of Evidence*, 18 June 2018, p.9.

³⁷¹ Mr Peter Dunnet, *Transcript of Evidence*, 18 June 2018, p.9.

³⁷² Submission No. 97, Mr Jack Evans, p.7.

³⁷³ Submission No. 97, Mr Jack Evans, p.7.

³⁷⁴ Submission No. 97, Mr Jack Evans, p.7.

MS PENNY GIBSON

- 6.44 In her submission to the inquiry, Ms Penny Gibson advised the Committee that she owned 'a unit in Hackett' which was 'a small old 1 bedroom unit ideal for lower income tenants'.³⁷⁵
- 6.45 The submission stated that:
- In the last five years the annual expenditure on rates and land tax has gone from \$1820 per year to \$4228 per year or from \$35 per week to \$81 per week. I need to recoup this from the tenants but the ability to lift rents at this lower end of the market is limited so I have made a loss on this unit for several years despite not being heavily over mortgaged.³⁷⁶
- 6.46 The submission advised that land tax 'in particular' had 'skyrocketed from \$197 a quarter to \$626 per quarter'. This was 'more than for a modern unit in Lyneham (Axis apartments) which are \$420 per quarter for a one bedroom unit'. While the land tax was 'substantially less' for a unit in Axis apartments, this kind of 'modern apartment' could 'command a much higher rent to cover this', thus generating a further discrepancy.³⁷⁷
- 6.47 In her submission, Ms Gibson stated that people who had 'bought apartments in the few years before these enormous increase' had been 'caught both ways' in that they had 'paid full stamp duty before any reductions and now are paying high land taxes as well'.³⁷⁸
- 6.48 In light of this she asked for a 'rethink on how these fees are calculated with consideration for the type of unit and the ability of the units to recoup these cost in extra rent'.³⁷⁹

MR TIM DUNNET

- 6.49 In his submission to the inquiry, Mr Tim Dunnet advised the Committee that:
- It puzzles me that my one bedroom unit in Phillip can pay the same amount of rates and land tax as a three bedroom apartment or for that matter can be compared to a house and land package in Wanniasa.³⁸⁰

³⁷⁵ Submission No. 1, Ms Penny Gibson.

³⁷⁶ Submission No. 1, Ms Penny Gibson.

³⁷⁷ Submission No. 1, Ms Penny Gibson.

³⁷⁸ Submission No. 1, Ms Penny Gibson.

³⁷⁹ Submission No. 1, Ms Penny Gibson.

³⁸⁰ Submission No. 5, Mr Tim Dunnet.

6.50 The submission advised that:

In 2007 my unit was valued at \$330000 and is now valued at \$280000 a capital loss of \$50000. Yet rates and land tax have increased exponentially. In 2013-2014 Rates were \$1182 and Land Tax was \$491. The government then introduced a fixed charge to land tax the following year 2014-2015 which increased land tax to \$1242 which while I did not like it I felt it was fair.

6.51 However, the submission advised, in this financial year 2017-2018 the rates liability for the property was \$1488 and land tax was \$2029. It stated that the 'decision by the government to place my small unit into the top land tax bracket' was 'just unreasonable'. Land tax had 'increased over 400%', and he could not see this as 'justifiable [or] fair'.³⁸¹

6.52 The submission advised that:

What this has meant for my young family consisting of two full time working parents and three children aged 9, 7 and 6 is that we have not been to the south coast for a holiday for two years as we can no longer afford it with the loss of income and extra government charges levied against us. We have not been out to dinner as a couple for over six months as we can't afford to due to these charges and other cost of living pressures.³⁸²

MS CATHERINE WALLACE

6.53 In her submission to the inquiry, Ms Catherine Wallace advised the Committee that:

In just two years, the Land Tax on my one-bedroom strata unit has increased from \$1092 pa, through \$1462 pa to \$1602 pa, while General Rates have increased from \$939 pa through \$1251 pa to \$1372 pa, constituting a 46% pa increase in EACH of these charges.³⁸³

6.54 'In addition', the submission advised:

my Unit Levies (which reflect increases costs resulting from inflation, itself brought about by higher charges, taxes and expenses for materials and living expenses) from \$3566 to \$4015 an almost 12% increase.³⁸⁴

³⁸¹ Submission No. 5, Mr Tim Dunnet.

³⁸² Submission No. 5, Mr Tim Dunnet.

³⁸³ Submission No. 46, Ms Catherine Wallace, p.1.

³⁸⁴ Submission No. 46, Ms Catherine Wallace, p.1.

6.55 'Overall', the submission advised, 'these expenses associated with my rental property have risen at a rate far above the ACT CPI for either of the last two financial years (2015-2017)'.³⁸⁵

6.56 However, the submission stated, while 'government charges on my strata unit have risen by almost 50%, I am unable to recoup any of this extra cost incurred through increasing the rent on my unit', due to 'the increasingly number of units being built'. In fact, in terms of recovery of costs, it was 'almost the opposite' as 'rental income for my strata unit in the most recent financial year actually decreased from \$22,950 to \$21,154, a drop of 8.5%'.³⁸⁶

MS TERRIE LENDON

6.57 In her submission to the inquiry, Ms Terrie Lendon advised the Committee that:

We are property investors and believe we have been unfairly impacted by these excessive rates and land tax increases, based on our decision to invest in property relying on the rent from this apartment to help fund our retirement.³⁸⁷

6.58 The submission advised that:

Our Land Tax increases are 46% per quarter based on \$380 per quarter to \$554 per quarter. How can we as investors recover the very high extra government costs from our tenants? Increasing the rent for our tenants is not the answer as this would more than likely make my tenants move out of our property.³⁸⁸

6.59 As a result, the submission stated:

Our income is being diminished more and more by everyday cost increases and these heavy increases in land tax and rates mean we now need to review our investment plans for the future.³⁸⁹

6.60 The submission also stated that it was difficult to see:

how the government can use the total body corporate unimproved land value as the basis for calculating land tax when individual landlords do not receive income from the total unimproved land value, only their portion.³⁹⁰

³⁸⁵ Submission No. 46, Ms Catherine Wallace, p.1.

³⁸⁶ Submission No. 46, Ms Catherine Wallace, p.1.

³⁸⁷ Submission No. 22, Ms Terrie Lendon.

³⁸⁸ Submission No. 22, Ms Terrie Lendon.

³⁸⁹ Submission No. 22, Ms Terrie Lendon.

³⁹⁰ Submission No. 22, Ms Terrie Lendon.

MR ARTHUR LAGOS

- 6.61 In his submission to the inquiry, Mr Arthur Lagos stated that he was a unit owner writing as a representative of the Owners Corporation (UP 2036) of a small commercial property complex 'The Phillip Market Place' in Phillip ACT.³⁹¹
- 6.62 The submission acknowledged that the inquiry was concerned with the residential sector, however wished 'to highlight to the committee that the commercial property sector has also been adversely affected by the substantial increase in land rates/land tax.'³⁹²
- 6.63 The submission advised that the complex had experienced increases in land rates of: 28% in 2016 and 62% in 2017. A 36% increase was forecasted for 2018; and a 26% increase was forecasted for 2019.³⁹³
- 6.64 The submission advised the Committee that such increases were 'simply not affordable or sustainable' because 'commercial rents typically move up in line with CPI which is around 2%'. In addition, retail trading was 'slow' because 'consumer spending [was] falling due to cost of living pressures', and as a result, 'rates increases often cannot be passed onto the tenants'.³⁹⁴
- 6.65 The submission advised that recent increases in rates were 'forcing small [business] property owners to borrow funds just to pay statutory charges'.³⁹⁵
- 6.66 In addition, rates increases had 'an adverse impact on property values' because valuations were 'based on net property rents which are reducing as a result of these substantial increases'.³⁹⁶ This reduction in commercial property value, in turn, had 'further negative implications on bank lending requirements which places further pressure on owners'.³⁹⁷
- 6.67 The submission advised that this 'commercial complex' was 'not alone on this matter', and that there were 'many other commercial property owners [who were] experiencing similar challenges'.³⁹⁸

³⁹¹ Submission No. 60, Mr Arthur Lagos.

³⁹² Submission No. 60, Mr Arthur Lagos.

³⁹³ Submission No. 60, Mr Arthur Lagos.

³⁹⁴ Submission No. 60, Mr Arthur Lagos.

³⁹⁵ Submission No. 60, Mr Arthur Lagos.

³⁹⁶ Submission No. 60, Mr Arthur Lagos.

³⁹⁷ Submission No. 60, Mr Arthur Lagos.

³⁹⁸ Submission No. 60, Mr Arthur Lagos.

6.68 In light of this, the submission asked the Committee to expand the terms of reference of the inquiry to include the circumstances of owners of commercial rental property within the scope of the inquiry.

OTHER CONTRIBUTORS

6.69 Other contributors also made comment on the consequences of increases in land tax.

6.70 Ms Pamela Nash, in her submission to the inquiry, advised:

I am recently retired. I am on a small but manageable pension just on the limit of a centrelink payment so my pension is significantly eroded by the increase in rates. My pension is supplemented by self managed super fund which relies on income derived from property rental income. This too is significantly eroded by the substantial increase in land tax and rates.³⁹⁹

6.71 Mr Graeme Norris, in his submission, advised that:

The new Labor assessment methodology on rates and land tax appears to be just a sneaky grab for money. Small investors are having their savings stolen by this methodology which immorally inflates the value of a modest ACT unit to twice its market value to cheat people into paying obscene increases in rates and land tax. How is the ACT government allowed to continue to collect land tax on units given that that same government's new assessment methodology has wrecked all capital gain and income profits on units, and has devalued the entire ACT unit market?⁴⁰⁰

6.72 In another submission a submitter who asked not to be named advised in response to increases in rates and land tax, strata owners, 'particularly investors and retirees', would be 'selling up and leaving Canberra for regional centres' where they could 'live more financially comfortably and potentially have better health services (eg Wagga, Albury, Wodonga). This, the submission also advised would also be consistent with 'the Federal Liberal Government's intention to decentralize the Federal public service'.⁴⁰¹

³⁹⁹ Submission No. 34, Ms Pamela Nash, via *Haveyoursay*.

⁴⁰⁰ Submission No. 58, Mr Graeme Norris.

⁴⁰¹ Submission No. 96, [Name withheld], p.6.

EFFECT ON RENTS

INTRODUCTION

6.73 Contributors to the inquiry considered the effect of increases in rates land tax on rents, and on the financial circumstances of land-lords, in the ACT.

LEGAL RESTRICTIONS ON RENT INCREASES

6.74 Legal restrictions on rent increases in the ACT are imposed by Section 68, 'Guideline for orders', of the *Residential Tenancies Act 1997* (ACT).⁴⁰²

6.75 Sub-sections (1) and (2) of Section 68 provide that:

(1) The ACAT must allow a rental rate increase that is in accordance with the standard residential tenancy terms unless the increase is excessive.

(2) For subsection (1)—

(a) unless the tenant satisfies the ACAT otherwise, a rental rate increase is not excessive if it is less than 20% greater than any increase in the index number over the period since the last rental rate increase or since the beginning of the lease (whichever is later); and

(b) unless the lessor satisfies the ACAT otherwise, a rental rate increase is excessive if it is more than 20% greater than any increase in the index number over the period since the last rental rate increase or since the beginning of the lease (whichever is later).⁴⁰³

6.76 In effect, this places a burden of proof on a lessor (that is, a landlord or landlord's agent) to justify an increase in rent greater than 20% of CPI (Consumer Price Index) for Canberra,⁴⁰⁴ 'over the period since the last rental rate increase or since the beginning of the lease (whichever is later)'.⁴⁰⁵

⁴⁰² Section 68, *Residential Tenancies Act 1997* (ACT), viewed 21 August 2018, available at: <https://www.legislation.act.gov.au/View/a/1997-84/current/PDF/1997-84.PDF>

⁴⁰³ Section 68(1)-(2), *Residential Tenancies Act 1997* (ACT).

⁴⁰⁴ See Section 68(5), *Residential Tenancies Act 1997* (ACT).

⁴⁰⁵ Section 68(1)-(2), *Residential Tenancies Act 1997* (ACT).

MR ALEX POPOV

SUBMISSION

6.77 In his submission to the inquiry, Mr Alex Popov advised the Committee that he owned 'several residential investment units in the ACT all of which are rented out'; that his tenants were 'young families, young and middle-aged individuals', and that he was also a member of an Executive Committee for a residential unit complex in the ACT.⁴⁰⁶

6.78 Regarding increases in costs for investors in residential property, the submission advised that:

Since July 2017 there has been a substantial raise in Land Tax (in excess of 50% in some cases) and Rates (approx 16%) applied to my residential investment properties. The increase in these local taxes/costs were coincidental with credit tightening by APRA in 2017 ... which in its turn has resulted in an interest raise for investors.⁴⁰⁷

6.79 The submission advised that while 'both factors added significant pressure on rents in the ACT', changes in methodology for determining rates and land tax which had been 'a major contributing factor'.⁴⁰⁸

6.80 The submission advised that over the past 18 months, 'rent increases in my properties were in the range of \$40-\$50 per week', which was 'in excess of 10% of rent' and was 'very consistent with the market trend in the ACT for similar properties'. However, the submission advised, these increases were 'still insufficient to cover property ownerships costs' and, as a result, 'more rent increases are likely in coming months'.⁴⁰⁹

6.81 The submission advised that these increases contributed to 'ongoing financial pressure' on tenants. As a result, the submission advised:

I saw more delays in rent payments in 2017-18FY comparing to 2016-17FY. A young family with children have delayed their rent on one occasion in 2016-17FY. In the first six months of 2017-18FY this family have delayed rent payments on 4 occasions. This family is considering moving out. Another tenant did not delay rent payments in 2016-17FY and there was a delay in the first half of 2017-18FY.⁴¹⁰

⁴⁰⁶ Submission No.2 – Mr Alex Popov, p.1.

⁴⁰⁷ Submission No.2 – Mr Alex Popov, p.1.

⁴⁰⁸ Submission No.2 – Mr Alex Popov, p.1.

⁴⁰⁹ Submission No.2 – Mr Alex Popov, p.1.

⁴¹⁰ Submission No.2 – Mr Alex Popov, p.1.

6.82 The submission advised that the change in the methodology was ‘a significant contributing factor in the financial stress tenants have been experiencing’ in recent times.⁴¹¹

6.83 In his submission, Mr Popov advised that he had approached the Office of the ACT Chief Minister in 2017 with his concerns regarding the flow-on effect of the change in methodology on rents.⁴¹²

6.84 The submission stated that by way of reply Mr Popov received advice from the Office that:
These changes have now been in place for some time, and to date there has been little evidence of a significant increase in rents either across the market, or within specific segments.⁴¹³

6.85 In his submission, Mr Popov stated that he had asked the Office of the Chief Minister ‘to consider urgent measures to reimburse increased rental costs to tenants’, to which he receive a reply stating that:

In terms of measures to mitigate the impact of rate increases, I would submit that the most effective approach would be for such increases not to be passed onto tenants.⁴¹⁴

6.86 Having received this advice, Mr Popov advised that he was ‘left with a dilemma’: either to ‘start running a charity by providing residential accommodation below market value’ or ‘pass on the costs of the change to the tenants’.⁴¹⁵

6.87 Reflecting on this, in his submission Mr Popov advised that that an ‘ACT taxation reform website’ stated that tax reform involved ‘a change to the “tax mix” without an overall increase in the “tax take”’.⁴¹⁶

6.88 In response, Mr Popov in his submission advised that:

It may be true that this reform makes the tax system more efficient. However I see it increasingly unfair. It inflicts financial stress to those vulnerable with no overall financial benefit whosoever.⁴¹⁷

⁴¹¹ Submission No.2 – Mr Alex Popov, p.1.

⁴¹² Submission No.2 – Mr Alex Popov, p.1.

⁴¹³ Submission No.2 – Mr Alex Popov, p.1.

⁴¹⁴ Submission No.2 – Mr Alex Popov, p.1.

⁴¹⁵ Submission No.2 – Mr Alex Popov, pp.1-2.

⁴¹⁶ Submission No.2 – Mr Alex Popov, p.2, citing ACT government, ‘Taxation reform’, viewed 22 August 2018, available at: <https://apps.treasury.act.gov.au/budget/budget-2016-2017/fact-sheets/tax-reform-general-rates>

⁴¹⁷ Submission No.2 – Mr Alex Popov, p.2.

6.89 Mr Popov's submission also considered the effect of increased rents on the capacity of people to enter the home ownership market. Regarding this, advised the Committee that:

Most people who buy their first home have to save a deposit of at least 5-10% of the house price to have a mortgage approved. The reality is that majority of people will rent for years while saving a home deposit. The change adversely impacts saving a home deposit in the ACT. In 2017-18FY a young family in one of my residential property have been paying \$2,329.76 Land Tax applicable to their rental property via rent. I do not see the ACT Taxation reform helping them with saving a deposit to buy their own home by taking \$2,329.76 off their budget this year. As the Land Tax keeps raising it will be even harder for them to save later.⁴¹⁸

6.90 In addition, while taxation reform would reduce stamp duty in the ACT, the submission advised, this reduction was 'likely to be consumed by the rapidly increasing residential property prices in the ACT'.⁴¹⁹

6.91 In light of this, Mr Popov advised in his submission, he regarded land tax in the ACT 'in its current form of applying to residential rental properties' as a 'most unfair' way of 'discriminating those who cannot afford their home ownership'.⁴²⁰

HEARINGS

6.92 Mr Popov appeared before the Committee in hearings of 13 June 2018.⁴²¹

6.93 The Committee asked Mr Popov whether, if he increased rent at the same rate as increases in rates and land tax, he was financially disadvantaged by the changes in methodology.⁴²²

6.94 In responding, Mr Popov told the Committee:

Obviously, it is bad for tenants. It is bad for me, because they are reactive. I cannot increase the rent at the same moment in time when the tax increases, so I have to wear the loss before I actually come along and increase rent. And the increase in the rent cannot cover all the costs within the financial year. For example, I am increasing rents on some of the properties around Christmas time, which basically is in the middle

⁴¹⁸ Submission No.2 – Mr Alex Popov, p.2.

⁴¹⁹ Submission No.2 – Mr Alex Popov, p.2.

⁴²⁰ Submission No.2 – Mr Alex Popov, p.2.

⁴²¹ *Transcript of Evidence*, 13 June 2018, p.15 ff.

⁴²² *Transcript of Evidence*, 13 June 2018, p.17.

of the financial year. So for the first six months effectively I am running a loss for the business.⁴²³

6.95 When asked whether he was able to increase rents in the current market, Mr Popov told the Committee:

I am. I think my properties are still at or slightly below the average rental figures across similar properties in the ACT. I think I am running a prudent business in terms of how I select properties and how I manage them.⁴²⁴

6.96 However, he told the Committee, 'at the end of the day I am not running a charity':

If I am having these losses, whether that is mine or some other investors', it would be short term. At the end of the day people cannot really keep claiming the business losses indefinitely. That is not a sustainable model, which means we either have to quit the business or start running a charity pretty much and doing the loss all the time. That is not a sustainable model.⁴²⁵

6.97 The Committee noted that the ACT rental market had the second lowest vacancy rate in Australia, and asked Mr Popov whether rents were increasing in the ACT simply as a function of supply and demand.⁴²⁶

6.98 In responding to the question, Mr Popov told the Committee that:

I trust that there should be a balance between all the stakeholders. I do not really like taking advantage of the market over the people. At the end of the day, you deal with tenants, and they are real people with real lives.⁴²⁷

6.99 He told the Committee that in light of this 'if I did not have to, I would never increase the rent by as much as I have simply because I responded to this taxation reform'. Tenants were 'not happy' with increases and were 'not people who can actually go and buy a property or house outright', and were renting because they had 'limited choice'.⁴²⁸

6.100 At this point, a member of the Committee stated that a family member was renting at that time.⁴²⁹

⁴²³ Mr Alexander Popov, *Transcript of Evidence*, 13 June 2018, p.17.

⁴²⁴ Mr Alexander Popov, *Transcript of Evidence*, 13 June 2018, p.17.

⁴²⁵ Mr Alexander Popov, *Transcript of Evidence*, 13 June 2018, p.17.

⁴²⁶ *Transcript of Evidence*, 13 June 2018, p.19.

⁴²⁷ Mr Alexander Popov, *Transcript of Evidence*, 13 June 2018, p.19.

⁴²⁸ Mr Alexander Popov, *Transcript of Evidence*, 13 June 2018, p.19.

⁴²⁹ *Transcript of Evidence*, 13 June 2018, p.19.

6.101 In response, Mr Popov told the Committee:

That is a very good example. You said that your son is renting. If your son rents, that means somebody has to provide this rental property to your son. That means somebody has to pay this land tax, whether that is an investor or whether that is your son. An investor can run the business at a loss for a limited period of time, but then they either quit the business or put up the rent. There is nothing else in between.⁴³⁰

MR MICHAEL PARSONS

6.102 In his submission to the inquiry, Mr Michael Parsons advised that:

To say that landlords can recover these increased charges is ludicrous. To recover the increase in costs brought about by this increase in charges I would have to raise rent by \$60 per week. This would be both unacceptable and unaffordable my tenants, and indeed to most if not all tenants who are invariably wage earners.⁴³¹

6.103 The submission advised that:

All landlords are limited in what they can charge their tenants by the market itself. Given the long term malaise in wages growth throughout Australia the rental increase of 10% required to cover my increased costs is out of the question.⁴³²

6.104 In his submission, Mr Parsons advised that the 'increase in outgoings against my properties reduces my return on investment to some 3.3%pa', despite the fact:

- that 'the initial undertaking of the agent handling the sale of one of the investments that returns would exceed 7% net pa';
- that '[b]ig capital when seeking to invest in various projects inevitably seeks and receives returns of 10% and more for their participation'; and
- that small investors 'do not have the ability to move their investments around in reaction to fundamental changes in the market place' because they 'are constrained by what is the high relative costs of agent's and legal fees, capital gains tax and the like'.⁴³³

⁴³⁰ Mr Alexander Popov, *Transcript of Evidence*, 13 June 2018, p.19.

⁴³¹ Submission No. 61, Mr Michael Parsons.

⁴³² Submission No. 61, Mr Michael Parsons.

⁴³³ Submission No. 61, Mr Michael Parsons.

6.105 In his submission, Mr Parsons stated that the ACT government's actions regarding the methodology were 'a disincentive to small investors who are endeavouring to provide for their own retirement income'.⁴³⁴

6.106 Speaking for himself, Mr Parsons advised that:

My net income is now some \$500 per week, down from over \$560 per week. The adult pension is now in the order of \$455 per week. Had I known this is where my retirement income would finish at I may well have chosen to enjoy the small windfall that I received some 30 years ago rather than put it towards my retirement income.⁴³⁵

6.107 At a broader level, Mr Parsons advised in his submission:

At a time when we are all being urged to act responsibly and provide for our own retirement the actions of the ACT Government are totally irresponsible as they discourage us to do what most politicians are encouraging us to do.⁴³⁶

MR PETER AND MRS CAROL DUNNET

6.108 When Mr Peter and Mrs Carol Dunnet appeared in hearings of 13 June 2018, they were asked to what extent rises in costs from increased rates and land tax would be recoverable from tenants.⁴³⁷

6.109 In response, Mr Dunnet told the Committee that:

Since we wrote this, we have noticed that landlords are attempting to increase the rents on their properties. We have done this successfully. We have been able to increase it—\$10 on a \$400 property. Whatever percentage that is, that is the amount. It will not be a net return. That is the amount we feel that the market at the moment is able to cope with, otherwise you lose your tenant.⁴³⁸

6.110 When asked whether they had increased rents across all of their residential investment properties, Mrs Dunnet told the Committee that this had only been possible for one of their properties, a 'stand-alone' property at Phillip. However the other two investment properties were serviced apartments at Manuka, for which rents can only be increased by

⁴³⁴ Submission No. 61, Mr Michael Parsons.

⁴³⁵ Submission No. 61, Mr Michael Parsons.

⁴³⁶ Submission No. 61, Mr Michael Parsons.

⁴³⁷ *Transcript of Evidence*, 13 June 2018, p.8.

⁴³⁸ Mr Peter Dunnet, *Transcript of Evidence*, 13 June 2018, p.8.

way of the management of the serviced apartment complex, and then only 'in consideration of what other similar serviced apartments in the area are charging'.⁴³⁹

MR STEVE TRITTON

6.111 In his submission to the inquiry, Mr Steve Tritton advised that:

Due to the increase rates and land taxes as a result of the new calculations applied to units in the ACT, I am now paying more than 20% more in rates this financial year compared to the previous financial year and more than 50% land tax this financial year compared to the previous financial year. My property is negatively geared even with the tenants paying \$310 per week in rent. These rent costs are only going to increase as rates and land taxes rise.⁴⁴⁰

6.112 The submission advised that:

Overall, this has a very pronounced effect on housing affordability as landlords, like the mum and dad investors that I would probably belong to, struggle ourselves to keep up with the rising costs of living.⁴⁴¹

6.113 In addition, Mr Tritton advised in his submission:

Housing affordability is quite the heated topic on the national agenda and I understand it is likewise here in the ACT and surrounds. I'm perplexed at how demanding more and more money from property owners, who make available to tenants suitable and comfortable private dwellings to live, can ease the housing affordability problem.⁴⁴²

6.114 The submission advised:

With such steep increases to rates and land taxes in the ACT, I have little choice but to pass on at least some of these costs to my tenants, who themselves begin to feel more burdened by rising costs of rent.⁴⁴³

⁴³⁹ *Transcript of Evidence*, 18 June 2018, p.10.

⁴⁴⁰ Submission No. 15, Mr Steve Tritton.

⁴⁴¹ Submission No. 15, Mr Steve Tritton.

⁴⁴² Submission No. 15, Mr Steve Tritton.

⁴⁴³ Submission No. 15, Mr Steve Tritton.

6.115 However, Mr Tritton advised in his submission, he:

wondered how much of an outcry there would be if landlords impacted and affected by these increased costs were themselves to increase rental costs of similar measure.⁴⁴⁴

MR DENTON BOCKING

6.116 In his submission to the inquiry, Mr Denton Bocking advised the Committee that he owned 'five strata-titled units in inner-city Canberra, four in Turner and one in Reid', and that:

Nearly all my tenants are/have been students at ANU and those that are/have not been students have been junior lecturers at ANU or city workers. Many have also been from overseas. All have been on limited income; the students in particular rely mainly on scholarships and parental support.⁴⁴⁵

6.117 The submission advised that:

The rent I charge, which reflects market rates, is about \$340 per week. The combined rates and land tax on these units has typically increased by about 44% from 2016-17 to 2017-18, a huge annual increase. For example, the rates for one of my units on Northbourne Ave was \$1480.56 in September 2016 and \$1886.71 in September 2017, an increase of 27%. The land tax was \$446.04 for the September quarter 2016 (\$1784.16 for the 2016-17 year) and \$705.25 for the September quarter 2017 (\$2821 for the 2017-18 year), an increase of 58%. The combined increase was 44%, or \$1443.⁴⁴⁶

6.118 The submission advised that:

For me to recover this increase in my costs over 52 weeks I would have to increase the rent by \$27.75 per week. An increase of this amount would represent an increase of 8% and would impose significant financial stress on my tenants.⁴⁴⁷

6.119 So far, Mr Bocking advised in his submission, he had not done this, but 'in the long term rents will have to increase to cover this cost'. It was 'unfair to impose such a cost on those with limited means to pay' as international students already found Canberra 'an expensive

⁴⁴⁴ Submission No. 15, Mr Steve Tritton.

⁴⁴⁵ Submission No. 49, Mr Denton Bocking.

⁴⁴⁶ Submission No. 49, Mr Denton Bocking.

⁴⁴⁷ Submission No. 49, Mr Denton Bocking.

place to rent', and cost increases on rates and land tax would 'only add to the cost of renting'.⁴⁴⁸

6.120 At a broader level, the submission advised that:

Canberra attracts many international students. Not only does this help to build the city's and Australia's reputation internationally and foster long-term international understanding and relationships, but tertiary education is also a very valuable export. This should be taken into consideration when setting policies affecting rents, such as the proposed changes to the way rates and land taxes are determined and the consequent increases.⁴⁴⁹

OTHER CONTRIBUTORS

6.121 A number of other contributors also expressed concern at the effect of increases in rates and land tax on residential rents; on the capacity of residential investors to make a reasonable return on their investment; and on the supply of affordable housing.⁴⁵⁰

PERCEPTIONS OF LEGAL RESTRICTIONS ON RENT INCREASES

6.122 As noted above there are legal restrictions on rent increases in the ACT, set out in Section 68 of the *Residential Tenancies Act 1997*.⁴⁵¹

6.123 A number of contributors to the inquiry made comment on the effect of these restrictions on residential investor in view of increases in rates and land tax costs.

6.124 Mr Gary Petherbridge, when he appeared before the Committee in hearings of 11 July 2018, told the Committee that:

If the people providing those services by having investment properties need to recover their costs by increasing rents by as much as \$35 to \$50 a week and they cannot do it because ACAT or somebody refuses to allow them to do it, then they are going to move out of that market and you are going to lose that accommodation capability.⁴⁵²

⁴⁴⁸ Submission No. 49, Mr Denton Bocking.

⁴⁴⁹ Submission No. 49, Mr Denton Bocking.

⁴⁵⁰ These include: Submission No. 55, Ms Frances Davies, p.3; Submission No. 53, Mr Gary Petherbridge, p.1; Submission No. 1, Ms Penny Gibson; Submission No. 3, Mr Gary Barnes, p.1; Submission No. 5, Mr Tim Dunnet; Submission No. 11, Mr Phillip Baron, p.2; Submission No. 24, Mr Gary Jobson, p.2; Submission No. 29, Mr Mohan Mathews; Submission No. 43, Ms Annie Gregg; Submission No. 75, Negin Moghaddam (via *Haveyoursay*); and Submission No. 96, [Name withheld], p.6.

⁴⁵¹ Section 68, *Residential Tenancies Act 1997* (ACT).

⁴⁵² Mr Gary Petherbridge, *Transcript of Evidence*, 11 July 2018, p.51.

6.125 He told the Committee that there was ‘a ruling in ACAT that you cannot increase rents beyond CPI’ and that, as a result ‘every time there is a case like that, you have to go back to ACAT to address it’.⁴⁵³

6.126 Mr Michael Marsalek, in his submission to the inquiry, advised the Committee that:

As a landlord I couldn’t possibly increase the rent I charge by 46.8%. If I attempted that, my [tenant] would either leave (and no land tax would be payable as it would no longer be a rental property) or they would have every right to complain to ACAT under the Residential Tenancies ACT. In turn, ACAT would apply a CPI based formula for the rent increase. To my knowledge, the CPI has NEVER been 46.8% from one year to the next.⁴⁵⁴

6.127 Mr Andrew Sutton, in his submission to the inquiry, advised the Committee that his investment property had ‘seen our general rates increase from \$1,619 in 2016/17 to \$2,132 equating to an annual increase of 31.6%’, and also ‘our Land Tax increasing from \$2,035 in 2016/17 to \$3,265 in 2017/18’, amounting to ‘an annual increase of 60%’. Moreover, the submission advised, he was not able to ‘recoup these increases through rent increases’ as he was, he advised, ‘only allowed to increase my rent in accordance with CPI’ which, ‘according to my very recent rent increase’ was 3.4%.⁴⁵⁵

6.128 Ms Robyn Rofe, in her submission to the inquiry, advised the Committee that as ‘investors/landlords, we are restricted to increasing rents by the CPI, so we are unable to recoup’ additional costs from increased rates and land tax.⁴⁵⁶

EFFECTS ON INVESTMENT IN RESIDENTIAL PROPERTY

6.129 Contributors to the inquiry made comment on the likely effect of the change in methodology on levels of investment in residential property in the ACT.

⁴⁵³ Mr Gary Petherbridge, *Transcript of Evidence*, 11 July 2018, p.52.

⁴⁵⁴ Mr Gary Petherbridge, *Transcript of Evidence*, 11 July 2018, p.52.

⁴⁵⁵ Submission No. 21, Mr Andrew Sutton.

⁴⁵⁶ Submission No. 32, Ms Robyn Rofe.

MS SUSAN FOWLER

6.130 In her submission to the inquiry, Ms Susan Fowler advised the Committee that several years ago she had ‘invested all my meagre superannuation into a small ACT unit’, and that this ‘was, and is, my sole source of income’.⁴⁵⁷

6.131 In her submission, she advised that:

I do not live in Canberra, so I was unaware that the Barr Labor government was changing the assessment rules for Rates and Land Tax, and so I was unable to get out of the ACT unit market like lots of others who knew the destructive results of these changes. Consequently, my Rates and Land Tax went from about \$300 every 3 months over \$900 every 3 months.⁴⁵⁸

6.132 As a result, Ms Fowler advised in her submission:

I now have a useless ACT investment and have to borrow to pay these unfair increase. My investment is destroyed and I have to sell. I cannot pay such huge increases. Real estate agents tell me that the changes the Barr government has made has ruined the Canberra unit market and I will have to take a huge loss. My unit is worth \$20,000 less than it was before the new Barr government Tax calculation started to take [effect].⁴⁵⁹

6.133 The submission advised that:

Mr Barr’s office tells me that to changes were made to make people like me pay my fair share for ACT services and, that the increases are only \$400 per year. This is a lie. Prior to the Barr government new assessment method I was paying between \$600 and \$1200 more per year for ACT services than 95% of all people who live in the ACT and who use ACT services. That was bad enough in its unfair nature. But, now under the new Barr government methodology I am paying between \$2100 and \$3700 more per year for ACT services than 95% of all people who live in the ACT and use ACT services. And, I do not even live in the ACT or use its services.⁴⁶⁰

6.134 In her submission, Ms Fowler advised that if it were situated in NSW ‘my \$300,000 unit would attract no Land Tax at all’. In contrast, the new methodology ‘inflates my unit’s value to \$700,000, resulting in her paying ‘massive amounts of Land Tax’. In light of this, she asked why ‘would anybody buy a unit in Canberra’?⁴⁶¹

⁴⁵⁷ Submission No. 48, Ms Susan Fowler.

⁴⁵⁸ Submission No. 48, Ms Susan Fowler.

⁴⁵⁹ Submission No. 48, Ms Susan Fowler.

⁴⁶⁰ Submission No. 48, Ms Susan Fowler.

⁴⁶¹ Submission No. 48, Ms Susan Fowler.

MS ROBYN ROFE

6.135 In her submission to the inquiry, Ms Robyn Rofe advised the Committee that a ‘dramatic increase in Land Tax’ was a ‘major issue we face, as investors. She advised that increases for five investment properties, as shown in her submission, had amounted to ‘39% to 58% for 2017/18 only’, on top of ‘the increases we have been facing for the previous 3 years’.⁴⁶²

6.136 Ms Rofe advised in her submission that she had spoken to ‘a number of investors in regard to these increases’, and among these there were ‘few who have stated they are currently in the process of selling their ACT properties and others who are seriously considering the same’.⁴⁶³

6.137 The submission advised that the ‘general consensus’ was ‘that they can put their money into other investments where they can get better returns and will not have their incomes eroded by unrealistic rates and land taxes’. As a result, the submission advised, the ACT was ‘at risk of [losing] hundreds of millions of dollars which is currently invested in the ACT economy’.⁴⁶⁴

MR JOEL SMITH

6.138 In his submission to the inquiry, Mr Joel Smith advised the Committee regarding the effect of the change in methodology on investment in serviced apartments.

6.139 In his submission, he advised the Committee:

I manage and operate a complex of apartments as a serviced apartment hotel. Our business and sole source of income is derived from generating income on behalf of the individual owners of each apartment and charging them a management fee.⁴⁶⁵

6.140 He advised that he was writing to ‘submit my frustrations and opinions in relation to the recent changes in both rates and land tax calculation methodology which has led to massive increases charged to unit owners and investors’.⁴⁶⁶

⁴⁶² Submission No. 32, Ms Robyn Rofe.

⁴⁶³ Submission No. 32, Ms Robyn Rofe.

⁴⁶⁴ Submission No. 32, Ms Robyn Rofe.

⁴⁶⁵ Submission No. 31, Mr Joel Smith.

⁴⁶⁶ Submission No. 31, Mr Joel Smith.

6.141 The submission advised that:

With these recent increased costs (some owners have reported increases as high as 120% on valuation based land tax), units in the ACT have become a much less desirable investment and as such investors are beginning to divest in our complex and focus on assets in other states and territories.⁴⁶⁷

6.142 In his submission, Mr Smith advised that:

As our business model relies on the ability to pool investor's units together and sell them as a hotel style product, even a small decrease in available apartments due to divestment can have a dire flow on [effect] on all investor's ability to generate income - many of who are self funded retirees who use this business as their sole source of income and to support themselves.⁴⁶⁸

6.143 Reflecting on the effects of the change in methodology, Mr Smith advised in his submission that:

the hotel and hospitality industry experiences peaks and troughs as ACT's tourism market fluctuates. This affects the returns that each of our owners receives each month, on lower months, some owners may not even be able to cover their costs, [especially] those who need to cover mortgage repayments. The increased burden of these taxes only exacerbates this and I believe it will force investors out of the ACT.⁴⁶⁹

OTHER CONTRIBUTORS

6.144 Other contributors also made comment on the effect of the change in methodology on residential investment in the ACT.

6.145 Ms Annie Gregg, in her submission to the inquiry, advised the Committee:

I am a self-funded retiree and I live in an apartment and own 3 unit titled properties that are rented in Canberra and such a strategy will force me to consider selling my investments and moving my money interstate where a more equitable situation occurs. This strategy simply makes it too difficult to rely on Canberran property to be economically viable.⁴⁷⁰

⁴⁶⁷ Submission No. 31, Mr Joel Smith.

⁴⁶⁸ Submission No. 31, Mr Joel Smith.

⁴⁶⁹ Submission No. 31, Mr Joel Smith.

⁴⁷⁰ Submission No. 43, Ms Annie Gregg.

6.146 The submission also advised that this approach to raising revenue reflected ‘the government’s inability to diversify the economic revenue base of the town and makes the economy highly vulnerable’.⁴⁷¹

6.147 Mr Peter Dunnet, when he appeared before the Committee in hearings of 13 June 2018, was asked whether it made sense to invest in units in Canberra under the current rates and land tax system. In responding, he told the Committee that:

Having been property investors for nearly 20 years, we have learnt what to look at to determine whether a property is a viable investment property. I would not be buying any more property in the ACT.⁴⁷²

6.148 Mr Alex Popov, when he appeared before the Committee in hearings of 13 June 2018, when asked whether investors were moving to NSW, told the Committee:

That is a very good question. If I am to buy an extra investment property, probably I will be looking beyond the border, in New South Wales, at this point. But once again, I cannot talk for other people. As far as I am concerned, ACT is less attractive to me at the moment.⁴⁷³

6.149 A number of other contributors also made similar comment about the effect of the current system for rates and land tax on their view of residential investment, arguing that the current methodology made the ACT less attractive for investors.⁴⁷⁴

COMMITTEE COMMENT

6.150 As in the previous chapter, representations by contributors considered in this chapter were consistent in their view.

6.151 In general, they considered that:

- increases in rates for unit title properties were onerous, resulting in financial distress in some cases, and a general perception that both the rates of increase, and the resulting rates liabilities, were unsustainable and unfair;

⁴⁷¹ Submission No. 43, Ms Annie Gregg.

⁴⁷² Mr Peter Dunnet, *Transcript of Evidence*, 18 June 2018, p.8.

⁴⁷³ Mr Alexander Popov, *Transcript of Evidence*, 18 June 2018, p.21.

⁴⁷⁴ These included: Submission No. 84, Ms Anita Nemarich, via *Haveyoursay*; Submission No. 70, Mr Martin Hess, via *Haveyoursay*; Submission No. 71, Makarand Kale, via *Haveyoursay*; Submission No. 39, Mr Alec Mackie; Submission No. 16, Ms Jenny Smith; Submission No. 22, Ms Terrie Lendon; and Submission No. 96, [Name withheld], p.7.

- increases in land tax were onerous and unfair; had resulted in residential investments no longer producing a positive return on investment; and would discourage further residential investment in the ACT.

6.152 In relation to land tax, contributors advised that residential investors were limited by law as to the degree to which they could recover costs of increases in rates and land tax by increasing rents, and that as a result the only option open to landlords was either to absorb the costs or — in some cases — to sell ACT residential investments.

6.153 They were consistent in putting the view that residential investment in unit title properties in the ACT was, as a result of the 2017 change in methodology, very unlikely to produce a return on investment. Residential investors who contributed to the inquiry advised that they anticipated seeking investment opportunities in other jurisdictions as a response to the current ACT rates and land tax system.

6.154 In relation to these matters, the Committee refers to the recommendation made in the previous chapter to devise a new method of determining the system on rates and land tax for unit title properties.

6.155 The other important feature which emerged from contributions was confusion regarding the legal constraints on landlord's ability to increase rents. Some contributors were under the impression that this was the result of a landmark case in the ACT Civil and Administrative Tribunal (ACAT), but in fact — as noted above — legal restrictions currently in force are an effect of Section 68 of the *Residential Tenancies Act 1997* (ACT).⁴⁷⁵

6.156 This is an area — as for of 'unit entitlement' — about which the general public are less than fully informed, and should be. It is the view of the Committee that the responsibility for ensuring that the public are properly informed lies with the ACT government, and that any failure to inform reduces democratic rights in the ACT.

6.157 In light of this, the Committee makes the following recommendation.

⁴⁷⁵ Section 68, *Residential Tenancies Act 1997* (ACT), viewed 21 August 2018, available at: <https://www.legislation.act.gov.au/View/a/1997-84/current/PDF/1997-84.PDF>

Recommendation 3

6.158 The Committee recommends that the ACT government ensures that the ACT general public is aware of the effect of Section 68 of the *Residential Tenancies Act 1997* (ACT) in regulating increases of residential rents by including accurate and relevant information on the website of the ACT Revenue Office.

7 DOWNSIZING AND 'EFFICIENCIES'

INTRODUCTION

- 7.1 Contributors to the inquiry expressed concerns that changes to the methodology:
- disadvantaged downsizers and discouraged people from downsizing in the future; and
 - ignored savings and efficiencies to government — in providing municipal services — which result from the higher density of unit-titled dwellings and the financial contributions of owners of unit-titled properties, through legislatively mandated strata fees, to support maintenance, services and amenity.
- 7.2 These concerns are considered below.

DISADVANTAGES FOR DOWNSIZERS

- 7.3 Contributors to the inquiry put the view that the change in methodology for rates and land tax disadvantaged and discouraged downsizers: that is, older people who had moved from larger stand-alone houses to more compact accommodation, or wished to do so in the future.

MR ROSS GREENWOOD

- 7.4 In his submission to the inquiry, Mr Ross Greenwood advised the Committee that:
- In 2017, in preparation for our retirement, my wife and I moved from a house in the suburbs into an apartment.⁴⁷⁶
- 7.5 The submission advised that:
- The move has meant we have downsized our property, reduced our consumption of electricity and water, our use of the road network and of other public infrastructure, therefore reducing our environmental footprint.⁴⁷⁷
- 7.6 The submission advised that '[p]rospectively we are independent retirees', however the 'changes to the methodology has significantly increased our cost of living', and also

⁴⁷⁶ Submission No. 47, Mr Ross Greenwood.

⁴⁷⁷ Submission No. 47, Mr Ross Greenwood.

provided 'a disincentive for others in our situation to make similar downsizing decisions in future'.⁴⁷⁸

- 7.7 The submission advised that '[i]nexplicably the changes would seem to run counter to the core concerns for the environment espoused by the parties in Government that implemented them' and that, in light of this the 'policy should be wound back' in the 'interests of environmentally sustainable equitable treatment between households'.⁴⁷⁹

MR JEREMY REDGROVE

- 7.8 In his submission, Mr Jeremy Redgrove advised the Committee that:

We are close to retirement age and downsized to an apartment to lessen our living costs. The strata fees have been a burden but the rates for an apartment were less than our family home. However, this monstrous change to the policy has seen a hike in rates that seriously threatens our ability to stay.⁴⁸⁰

- 7.9 The submission advised:

Worse, the ACT Government are planning another huge rates hike for apartment owners next year. We can't afford to stay but we will lose too much money if we sell as this policy change along with the deliberate flooding of the apartment market has caused apartment values to drop and drop.⁴⁸¹

- 7.10 'Meanwhile, the submission advised, 'the Canberra house we sold has continued to increase in value'.⁴⁸²

- 7.11 In light of this, the submission stated that:

We should have never have bought an apartment in Canberra we will be financially ruined by this Government's policy.⁴⁸³

⁴⁷⁸ Submission No. 47, Mr Ross Greenwood.

⁴⁷⁹ Submission No. 47, Mr Ross Greenwood.

⁴⁸⁰ Submission No. 65, Mr Jeremy Redgrove, via *Haveyoursay*.

⁴⁸¹ Submission No. 65, Mr Jeremy Redgrove, via *Haveyoursay*.

⁴⁸² Submission No. 65, Mr Jeremy Redgrove, via *Haveyoursay*.

⁴⁸³ Submission No. 65, Mr Jeremy Redgrove, via *Haveyoursay*.

A SUBMITTER

- 7.12 A submission, a submitter who did not wish to be named advised the Committee that the change in methodology was a 'disincentive for anyone in large houses with high rates to downsize into a strata title unit'.⁴⁸⁴
- 7.13 When the submitter appeared before the Committee in hearings of 8 August 2018, the Committee asked whether the current methodology was at odds with government policy to encourage people to downsize.⁴⁸⁵
- 7.14 In responding, the submitter told the Committee:
- I think they are shooting themselves in the foot, frankly. It is not attractive for people to downsize. Why would you want to downsize and then have the aggravation of living in a body corporate property? Believe me; there is quite a lot. You are always dealing with parking issues; you are always dealing with other sorts of issues.⁴⁸⁶
- 7.15 The submitter told the Committee:
- There is not really an incentive. Why would you want to do that? Why would you want to downsize from where you have total autonomy over your whole property and quiet enjoyment over the whole property? Why would you want to downsize and have it end up costing you more in rates? It is just not sensible. It is nonsensical.⁴⁸⁷

MR SIMON HEARDER

- 7.16 In his submission to the inquiry, Mr Simon Hearder advised the Committee that:
- I and my wife purchased this townhouse Unit XXXX Greenway ACT 2900 three years ago. The Average Unimproved Value (AUV) of our strata unit was \$ 133,609. The valuation base charge was calculated at \$ 366.69. The methodology used to calculate the base charge was the AUV of the strata unit.⁴⁸⁸

⁴⁸⁴ Submission No. 96, [Name withheld], p.6.

⁴⁸⁵ *Proof Transcript of Evidence*, 8 August 2018, p.82.

⁴⁸⁶ *Proof Transcript of Evidence*, 8 August 2018, p.82.

⁴⁸⁷ *Proof Transcript of Evidence*, 8 August 2018, p.82.

⁴⁸⁸ Submission No. 64, Mr Simon Hearder

7.17 At the time, the submission advised:

There was a considerable inducement to purchase this townhouse by downsizing from our larger house in Rivett as the rates were far less, as you would expect, in the valuation base charge.⁴⁸⁹

7.18 However, Mr Hearder advised in his submission:

You can imagine our astonishment, and subsequent anger, when the Rates Assessment Notice for 2017 /2018 arrived in the mail to announce, with no warning, that the methodology in assessing the average base charge had changed. It was not based on the individual strata unit AUV but on the complex as a whole. From AUV of \$ 133,609 to a complex AUV of \$3,844,000.⁴⁹⁰

7.19 The submission advised the Committee that:

This value placed our rates in the \$ 600,000 - and above Residential AUV which is the same grouping as properties in the very expensive suburbs of Canberra. Consequently our valuation base charge has more than doubled from \$ 366.69 to \$ 771.04.⁴⁹¹

7.20 This, the submission advised, was 'unsustainable for pensioners like us'.⁴⁹² The submission stated that the 'whole point of downsizing' was 'to make a larger house and block available for young families to purchase'. However, it stated, this '110 % increase penalises people downsizing' and detracted from 'the financial rationale' for 'moving from a large property on a large plot of land to a smaller strata unit on a smaller plot of land'.⁴⁹³

MR FREDERICK RUBLY

7.21 In his submission, Mr Frederick Rubly advised the Committee that:

We had been reading where the Government was encouraging Seniors to downsize in order to free up housing for younger families. The logic being that this would reduce waste removal and utility expenses, maximise infrastructure usage around town centres and reduce land usage and availability pressure.⁴⁹⁴

⁴⁸⁹ Submission No. 64, Mr Simon Hearder

⁴⁹⁰ Submission No. 64, Mr Simon Hearder

⁴⁹¹ Submission No. 64, Mr Simon Hearder

⁴⁹² Submission No. 64, Mr Simon Hearder

⁴⁹³ Submission No. 64, Mr Simon Hearder

⁴⁹⁴ Submission No. 30, Mr Frederick Rubly.

7.22 As a result, the submission advised:

As “senior” pensioners, we rationalised our future lifestyle and health services requirements, took the above advice ‘on-board’, and made the decision to be closer to our children and grandchildren.⁴⁹⁵

7.23 The submission advised that, consistent with this, ‘[w]e subsequently moved from the South Coast last year, and downsized to a Unit in Canberra’.⁴⁹⁶

7.24 However, the submission advised:

Had we known the ACT Government was intending to rape unit owners with its revised Strata rate calculations, we would either have not moved to Canberra or purchased a home rather than a unit!⁴⁹⁷

7.25 The submission advised the Committee that:

Life is hard enough on a fixed pension, with eroding benefits, body corporate fees, electricity prices and private health cover going through the roof, and now an imminent and immoral rate increase that will exceed 50%!⁴⁹⁸

MR PHILLIP BARON

7.26 In his submission to the inquiry, Mr Phillip Baron advised the Committee that:

The ACT Government has encouraged our senior citizens to downsize to increase living density, reducing land usage pressure, maximising use of infrastructure around town centres, reducing waste removal and utility costs, and vacating larger houses and blocks for young families, but then be penalised with higher rates.⁴⁹⁹

7.27 When he appeared before the Committee in hearings of 13 June 2018, Mr Baron was asked whether he thought the ACT government had actively encouraged people to move into units.⁵⁰⁰

⁴⁹⁵ Submission No. 30, Mr Frederick Rubly.

⁴⁹⁶ Submission No. 30, Mr Frederick Rubly.

⁴⁹⁷ Submission No. 30, Mr Frederick Rubly.

⁴⁹⁸ Submission No. 30, Mr Frederick Rubly.

⁴⁹⁹ Submission No. 11, Mr Phillip Baron, p.2.

⁵⁰⁰ *Transcript of Evidence*, 13 June 2018, p.2.

7.28 In responding, Mr Baron told the Committee that he thought this was the case; that there were schemes in the Territory and Federal jurisdictions which provided incentives for this.⁵⁰¹

7.29 When asked whether this had contributed to his own decision to downsize, he told the Committee that it had, and that financial considerations had also played a part.⁵⁰²

MS JENNY SMITH

7.30 In her submission, Ms Jenny Smith advised the Committee of a further aspect of downsizing — the consequences of divorce or the death of a spouse — which was not widely considered in other contributions.

7.31 Her submission advised that:

Many retirees have been encouraged to down-size but, unfortunately, in many cases, it is women who have had changed life circumstances thrust upon them who are buying into strata plans. Divorce or death of a spouse has meant often that they have to “start again” which is no mean feat in later years, taking on mortgages as well as the steeply rising rates, insurance etc.⁵⁰³

7.32 Regarding her personal circumstances, Ms Smith advised the Committee that:

In coming years, I suspect I will have to sell and move to a rural town as I will simply not be able to afford to live here. I do not understand how almost all strata unit owners will have their rates and land tax calculated on the highest rating tier factor.⁵⁰⁴

MS DIANE AND MR ANDREW OVERALL

7.33 In their submission, Ms Diane and Mr Andrew Overall advised the Committee that:

In 2017 we sold our house and moved into an apartment in the same suburb. Our decision to move was partly motivated by our desire to reduce our environmental footprint. We would have expected there to have been a considerable saving in rates as well as in utility use, especially as apartment owners use fewer services. Waste

⁵⁰¹ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.2.

⁵⁰² Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.2.

⁵⁰³ Submission No. 16, Ms Jenny Smith, p.1.

⁵⁰⁴ Submission No. 16, Ms Jenny Smith, p.1.

collection, for example, is paid by the Owners' Corporation and therefore by the owners.⁵⁰⁵

7.34 The submission advised the Committee that:

- the current method for calculating rates for multi-unit dwellings was unfair;
- while it was not an undue financial burden on them, it would be for 'many people'; and that
- the 'decision to unfairly change the methodology used to determine rates and land taxes for apartments' was 'blatant revenue raising' and would 'have a negative impact on many Canberrans'.⁵⁰⁶

OTHER CONTRIBUTORS

7.35 Other contributors also made comment on the effect of the change of methodology on downsizers.

7.36 Mr Gary Barnes, in his submission to the inquiry, advised the Committee that:

The Government encouraged our more senior citizens to downsize to increase density of living, reducing land usage pressure, maximising use of infrastructure around town centres, reducing waste removal and utility costs, and vacating larger houses and blocks for young families but then they are penalised with higher rates and taxes.⁵⁰⁷

7.37 A number of other contributors expressed their view in similar terms.⁵⁰⁸

SAVINGS AND EFFICIENCIES

7.38 Contributors to the inquiry put the view that in making the most recent changes to the methodology the ACT government had ignored savings and efficiencies to government — in providing municipal services — which result from the higher density of unit-titled dwellings and the financial contributions of owners of unit-titled properties toward services and up-keep of infrastructure.

⁵⁰⁵ Submission No. 50, Diane and Andrew Overall.

⁵⁰⁶ Submission No. 50, Diane and Andrew Overall.

⁵⁰⁷ Submission No. 3, Mr Gary Barnes, p.1.

⁵⁰⁸ See Submission No. 55, Ms Frances Davies, p.3; Submission No. 53, Mr Gary Petherbridge, p.1; Submission No.2, Mr Alexander Popov, p.2; Submission No. 29, Mr Mohan Mathews; Submission No. 24, Mr Gary Jobson, pp.1-2; and Submission No.94, Ms Michelle Dawson, via *Haveyoursay*.

7.39 The ACT government's view on these matters was put to the Committee in hearings of 8 August 2018, where the Treasurer told the Committee that costs for providing services to higher density dwellings varied, depending on circumstance.⁵⁰⁹

MR TED QUINLAN

7.40 In his submission to the inquiry, Mr Ted Quinlan advised the Committee that:

It ought [to] be remembered that unit owners generally incur a second level of costs relating to their residences in the form of corporate fees, some including expensive items such as elevator maintenance contracts and mandatory contributions to sinking funds.⁵¹⁰

7.41 In light of this, the submission advised, some further 'evaluation of the reduced demand that unit owners make on municipal services should also be factored into rating assessments'.⁵¹¹

7.42 When he appeared before the Committee in hearings of 13 June 2018, Mr Quinlan told the Committee that 'unit developments in fact offer economies of scale to the government'.⁵¹²

7.43 'At the same time', he told the Committee, 'living in a unit complex does impose on the unit owners additional costs of just being in that unit',⁵¹³ and hence:

For the privilege of reducing the cost of city services, they also have to pay corporate fees and all the other things—for example, the legal requirement for sinking fund contributions over the first few years.⁵¹⁴

7.44 He told the Committee it was 'quite an expensive exercise to buy and live in a unit complex', and that 'over the long run', there was 'a problem to be redressed'.⁵¹⁵

7.45 Regarding this, he told the Committee, 'you have to take into account the additional costs of living in a unit complex versus living in a detached house', and 'the contribution you

⁵⁰⁹ See Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, pp.68-70.

⁵¹⁰ Submission No. 33, Mr Ted Quinlan.

⁵¹¹ Submission No. 33, Mr Ted Quinlan.

⁵¹² Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.24.

⁵¹³ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.24.

⁵¹⁴ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.24.

⁵¹⁵ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.24.

make by not demanding as many city services in an apartment block as you do in a detached house'.⁵¹⁶

MS FRANCES DAVIES

7.46 In her submission to the inquiry, Ms Frances Davies advised the Committee that:

The changed methodology to rates calculations for residential unit owners does not 'provide greater equity between free-standing home owners and apartment owners' as stated by the government. This is simply not correct. There are many items where apartment owners are subsidising free-standing home owners, particularly with relation to municipal infrastructure. Apartment owners use less infrastructure servicing their homes and their use of all other services are equal or less than those living in free standing homes.⁵¹⁷

7.47 In her submission she advised that, in her case:

The Axis complex helps reduce municipal infrastructure costs. We are close to Dickson and Lyneham commercial operations. This results in reduced wear to municipal infrastructure such as roads and paths and reduced environmental damage via transport methods. This is particularly the case for Axis because it is adjacent to a number of bus routes, the forthcoming light rail and the proposed redevelopment of Dickson.⁵¹⁸

7.48 In relation to municipal services, the submission advised that:

As with other large apartment complexes, Axis has a single collection point for garbage trucks and does not require trucks to lift hundreds of individual bins, resulting in reduced labour requirements for government contracted waste management. Further, there is reduced curb-side dumping in apartment complexes as these items are more commonly dumped in waste rooms and are disposed of at cost to all apartment owners in the complex.⁵¹⁹

7.49 The submission advised, regarding other services and costs:

Axis Fire & Emergency Services levies are charged at the same rate to owners as they are to free-standing home owners. However, our owners contribute a significant amount of resources to the maintenance of fire safety items within our buildings and in

⁵¹⁶ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.26.

⁵¹⁷ Submission No. 55, Ms Frances Davies, p.2.

⁵¹⁸ Submission No. 55, Ms Frances Davies, p.2.

⁵¹⁹ Submission No. 55, Ms Frances Davies, p.2.

the education of our residents about reducing their fire risk. This results in reduced attendance rates for fire services in comparison to regular free-standing homes.⁵²⁰

7.50 A similar principle applied for other services:

SES attendance rates are significantly reduced in apartment complexes such as Axis. SES requests for attendance to Axis apartment are uncommon, with most damage being attended to by tradespeople at a cost to the owner's corporation. Police attendance for domestic disturbances is also reduced as noise complaints are usually referred to and dealt by the Strata Manager. We have also invested heavily in security infrastructure which helps to ensure that reduced police presence is required.⁵²¹

7.51 In addition, the submission advised:

Axis accounts for significantly less infrastructure development cost than surrounding free-standing homes. This begins at build and continues throughout its lifetime. Expansion of the city for free-standing homes means tax dollars need to be spread across a wider area. It is inequitable to charge apartment owners at a higher rate than free standing home owners when they have costed and will continue to cost the government significantly less over their [properties'] lifetime.⁵²²

7.52 Moreover, high-rise apartment complexes preserved 'natural green space, resulting in less investment required in government implemented and maintained green space throughout the territory'. Axis apartments, 'like many high rise complexes', maintained 'its verges to a higher standard due to the framework around management of our buildings', resulting in:

decreased government costs for removal and replacement of verge trees, trimming of verge trees, watering of verge trees and general maintenance costs of poorly maintained verge areas and nature strips.⁵²³

MR PHILLIP BARON

7.53 In his submission to the inquiry, Mr Phillip Baron asked:

Why should unit owners pay higher rates when the Government enjoys economies of scale for service provision through unit plan developments?⁵²⁴

⁵²⁰ Submission No. 55, Ms Frances Davies, p.2.

⁵²¹ Submission No. 55, Ms Frances Davies, p.2.

⁵²² Submission No. 55, Ms Frances Davies, p.2.

⁵²³ Submission No. 55, Ms Frances Davies, p.3.

⁵²⁴ Submission No. 11, Mr Phillip Baron, p.2.

7.54 The submission advised the Committee that:

For comparable taxation on a separate house and land, the strata owner receives much less in the way of road maintenance, street lighting, waste recycling services, green waste collection and facilities. Our internal roadways, drainage and lighting infrastructure and maintenance are paid for by the body corporate fees. This is, in effect, saving the government money in the provision of these services and infrastructure.⁵²⁵

7.55 However, the submission advised:

Now unit plans are expected to pay proportionally more, when compared to detached houses, in rates and taxes, despite the government enjoying cost savings and the economies of scale provided by unit developments.⁵²⁶

7.56 When Mr Baron appeared before the Committee in hearings of 13 June 2018, he told the Committee that:

In respect of the other thing, the economy of scale, as I have pointed out in my document, as a unit plan we actually pay for our internal streets. That is part of the sinking fund. We pay for our lighting. In fact, we had to have the lighting installed because there was no lighting in our apartment complex originally.⁵²⁷

7.57 He told the Committee that there was a difference in ‘the ratio of recycling to landfill in our units’, and that ‘[o]ur recycling is something in the order of one-quarter of the detached housing recycling rate’.⁵²⁸

7.58 Mr Baron told the Committee that ‘we in unit plans actually provide the government with some cost savings’, because ‘the government only has to maintain the outer part of the street’: the unit owners, collectively, maintained ‘all the internal streets’, and generated smaller quantities of recycling material for removal than detached houses.⁵²⁹

MR GARY PETHERBRIDGE

7.59 In his submission to the inquiry, Mr Gary Petherbridge advised the Committee that for unit titled properties the impact of the change in methodology had been ‘particularly great’ and

⁵²⁵ Submission No. 11, Mr Phillip Baron, p.1.

⁵²⁶ Submission No. 11, Mr Phillip Baron, p.1.

⁵²⁷ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.1.

⁵²⁸ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.1.

⁵²⁹ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.1.

that this was 'disproportional to the land and municipal resources used versus usage by single houses and blocks'.⁵³⁰

7.60 In addition, the submission advised:

In multi-unit complexes every unit pays the "fixed charge" component of the Rates and Taxes. This is a major [windfall] for the Government as the cost for many of the municipal services it is meant to cover – waste removal, kerbing, guttering, roads, verge maintenance and even public transport ... are significantly lower to support a greater density of population.⁵³¹

7.61 In addition, the submission advised:

Some of these services are paid for directly by Owners Corporations and these costs are passed to owners by their body corporate levies – hence in some instances the owners are paying twice. The multiple collection for these fixed charges is particularly effective in creating a larger Revenue Take.⁵³²

ROGER NEIL SMITH AND DIANA RUTH SMITH

7.62 In their submission to the inquiry, Mr Roger Neil Smith and Mrs Diana Ruth Smith advised the Committee that:

The apartment block in which my apartment is located has 190 apartments. This sort of increase applied to all apartment owners in this building alone is enormous. We have had no change in services over the last 8 years since inception. It seems to comprise one truck collection of compacted garbage in two hoppers three times a week and a weekly recycling collection also in large hoppers collected from within the building. We maintain our own gardens and surrounds including street and footpath cleaning as part of the precinct maintenance at our own cost.⁵³³

7.63 The submission advised:

I should add that we have never seen a street sweeper around this New Acton precinct and we have a precinct contractor picking up waste papers and other throw-away rubbish. This compares with considerably higher costs to the territory for servicing 190 individual suburban residences.⁵³⁴

⁵³⁰ Submission No. 53, Mr Gary Petherbridge, p.1.

⁵³¹ Submission No. 53, Mr Gary Petherbridge, p.2.

⁵³² Submission No. 53, Mr Gary Petherbridge, p.2.

⁵³³ Submission No. 57, Roger Neil Smith and Diana Ruth Smith (via *Haveyoursay*).

⁵³⁴ Submission No. 57, Roger Neil Smith and Diana Ruth Smith (via *Haveyoursay*).

7.64 In addition, the submission advised:

We have our own fully maintained underground parking with no Government costs for on or off-street parking. All of our building and services costs are covered within the body corporate fees paid by owners.⁵³⁵

A SUBMITTER

7.65 In a submission, a submitter who did not wish to be named advised the Committee that:

All strata unit owners must pay body corporate fees. They must also pay sinking fund fees to ensure that common property is appropriately maintained. These fees are significant.⁵³⁶

7.66 The submission advised that:

This common land, which is not owned by individual unit owners now forms part of the valuation based rates charge, yet the ACT Labor Government provides no maintenance or services for that land. This is paid for entirely by the owners' corporation. Yet, the ACT Government is calculating and collecting revenue on land for which it does not maintain or provide services.⁵³⁷

7.67 The submission advised that this was 'unconscionable multiple-dipping', which created 'even greater inequity between single title homeowners and strata unit owners',⁵³⁸ as:

Not only can homeowners realise the entire value of the property on which they pay rates when they sell their property, they do not have the added very significant burden of paying both body corporate and sinking fund fees every year.⁵³⁹

7.68 When the submitter appeared before the Committee in hearings of 8 August 2018, the submitter told the Committee that there were no municipal services provided to maintain the open spaces on the parcel of land to which her unit belonged. Unit owners, collectively, were 'just about to spend \$70,000' to replace an internal roadway, and this was paid for by way of body corporate fees and contributions to a sinking fund.⁵⁴⁰

⁵³⁵ Submission No. 57, Roger Neil Smith and Diana Ruth Smith (via *Haveyoursay*).

⁵³⁶ Submission No. 96, [Name withheld], p.5.

⁵³⁷ Submission No. 96, [Name withheld], p.5.

⁵³⁸ Submission No. 96, [Name withheld], p.5.

⁵³⁹ Submission No. 96, [Name withheld], p.5.

⁵⁴⁰ *Proof Transcript of Evidence*, 8 August 2018, p.79.

7.69 Regarding this, the submitter told the Committee that:

We have no option on those things. Single-title property owners do. They can let their place go to rack and ruin. We are not permitted to do that by law.⁵⁴¹

7.70 The submitter told the Committee that the recent change in methodology for rates did not take into account 'the fact that we have quite significant body corporate fees', and that her body corporate fees were \$2,000 a year.⁵⁴²

7.71 Regarding these fees, the submitter noted that such payments were compulsory:

the sinking fund is legislated to go up at a certain amount, we are supposed to have a certain amount in the sinking fund relative to value. It is supposed to go up 10 per cent a year. Nobody is getting those kinds of pay increases. We have been trying to keep it consistent, but we still have an obligation.⁵⁴³

7.72 The submitter told the Committee that costs for the upkeep of common areas was considerable:

If we have to paint the entire property, that is close to \$100,000. We are just about to replace the road; it will be \$70,000. We pay for gardening for our land borders. We make sure that the hedges do not go over onto public footpaths, because that is our liability.⁵⁴⁴

7.73 However in contrast, the submitter told the Committee, ACT government services were 'very sporadic':

We get a bit of garden trimming, grass trimming, behind the property on their land maybe once or twice a year.⁵⁴⁵

7.74 The only municipal service to the unit complex was the provision of municipal rubbish bins, but otherwise the owners maintained 'everything else', including the internal roads and gardens. This, the submitter told the Committee, did not 'substantiate an increase of 93.4 per cent' in her rates liability.⁵⁴⁶

⁵⁴¹ *Proof Transcript of Evidence*, 8 August 2018, p.79.

⁵⁴² *Proof Transcript of Evidence*, 8 August 2018, p.79.

⁵⁴³ *Proof Transcript of Evidence*, 8 August 2018, p.79.

⁵⁴⁴ *Proof Transcript of Evidence*, 8 August 2018, pp.79-80.

⁵⁴⁵ *Proof Transcript of Evidence*, 8 August 2018, p.80.

⁵⁴⁶ *Proof Transcript of Evidence*, 8 August 2018, p.80.

OTHER CONTRIBUTORS

7.75 Other contributors to the inquiry expressed concerns regarding efficiencies to government provided by unit-titled dwellings; the costs assumed by owners of unit-titled properties which would otherwise be funded by government; and a perceived disparity between these elements and a higher rates liability placed on unit-titled dwellings as a result of the change in methodology.⁵⁴⁷

COMMITTEE COMMENT

7.76 As in previous chapters, contributors to the inquiry were consistent in the views they put forward regarding the effect of the current methodology on people who had downsized from a larger free-standing dwelling to a unit title property.

7.77 These people considered that:

- they had been encouraged to move from larger to smaller accommodation by policies enunciated by the ACT government;
- they had made the decision to downsize in good faith, with regard to environmental implications and financial planning considerations for their retirement; and that
- they had subsequently been disadvantaged as a result of the implications of 2017 changes to the rates and land tax system.

7.78 In relation to this, these contributors considered that the ACT government had not acted consistently with its policy of encouraging downsizing, or higher density living in general, and they took the view that in this respect they had received a ‘false signal’ from the ACT government.

7.79 Regarding the question of whether the current rates and land tax system took into account savings to government of unit title plans providing their own municipal-type services, and the reduced cost of providing municipal services to higher density dwellings, contributors were consistent in arguing that:

- unit plans provided considerable savings to government as a result of their statutory obligations to maintain common areas and facilities such as driveways and garden areas, and to pay for services such as waste removal which are provided by government for free-standing dwellings; and that

⁵⁴⁷ See: Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.29; Submission No. 59, R O’Connell; Submission No. 52, Ms Emma Jackman; Submission No. 29, Mr Mohan Mathews; Submission No. 24, Mr Gary Jobson, p.1; Submission No. 30, Mr Frederick Rubly; and Submission No. 78, Mr Peter Fricker (via *Haveyoursay*).

- government provision of other municipal services to unit plans was less expensive because unit title dwellings were concentrated in a smaller area.

7.80 Some members of the Committee took the view that the ACT government has not taken these factors into account in designing the present methodology for determining rates and land tax for strata residences in the ACT, and that they should be taken into consideration.

8 MANDATE FOR REVISED METHODOLOGY

INTRODUCTION

8.1 Contributors to the inquiry expressed concerns as to:

- whether the ACT government had obtained a ‘mandate’ for the changes in methodology for rates and land tax;
- the degree to which the ACT government had provided a reasonable and logically sound rationale for the changes;
- the degree to which revenue generated by rates and land tax were considered to fund municipal or ‘state-type services’;
- whether the changes were consistent with the findings of the Quinlan review of taxation in the ACT;
- the degree to which the basis for calculating rates and land tax was, or should be, based on unimproved (AUV) or improved (AIV) values of properties;
- the degree to which there had been prior consultation or advice regarding the changes, and the quality of interaction with the ACT government, regarding the changes, after the changes came into force;
- the degree to which the changes were consistent with expectations regarding value for money; and
- whether changes to stamp duty in the ACT provided an adequate off-set or rationale for the change in methodology.

8.2 This chapter considers these concerns, on the presumption that there is a significant level of commonality between them in the sense that they are all to do with the degree to which government has asked — and citizens have provided — consent to the changes in methodology.

MANDATE

8.3 A number of contributors to the inquiry put the view that the ACT government had not sought, or received, a ‘mandate’ for the changes to the methodology for rates and land tax.

8.4 The most relevant entry in the Oxford English Dictionary provides this definition of ‘mandate’:

The commission to rule or to pursue stated policies conferred by electors on their elected representatives; support for a policy or measure of an elected party regarded as deriving from the preferences expressed by the votes of the electorate.⁵⁴⁸

- 8.5 In common currency, having a mandate is most often taken to mean that a government has taken a policy to an election and, as a result of winning the election while putting forward the policy, has been seen to have attracted the agreement of the electorate for that policy.

MR ALEXANDER POPOV

- 8.6 In his submission to the Committee, Mr Alexander Popov advised that the 'change does not have a mandate', and that:

The ACT taxation reform website ... has nothing to say about ACT taxation reform impact to tenants and rents. I suggest public was not properly informed and the mandate to the change could not be received.⁵⁴⁹

- 8.7 When he appeared before the Committee in hearings of 13 June 2018, Mr Popov was asked to expand on the assertion in his submission, that the government did not have a mandate for the change in methodology.⁵⁵⁰

- 8.8 In responding, Mr Popov told the Committee that:

In the information that I have read on the website, I have not seen any indication that the impacts on tenants and renters have been assessed. I could not find this information. Maybe it does exist but certainly I could not find it, and I read what there is available on the website. So from my point of view this information was not available. Obviously, there is more information which is available on the website but only the positive impact of this tax reform is discussed, which is fine, but in my view it was not comprehensive in that some other aspects have not been communicated properly to the public.⁵⁵¹

⁵⁴⁸ "mandate, n." *OED Online*, Oxford University Press, June 2018, www.oed.com/view/Entry/113299. Accessed 22 August 2018.

⁵⁴⁹ Submission No.2, Mr Alexander Popov, p.3, citing <https://apps.treasury.act.gov.au/budget/budget-2016-2017/factsheets/tax-reform-general-rates>

⁵⁵⁰ *Transcript of Evidence*, 13 June 2018, p.15.

⁵⁵¹ Mr Alexander Popov, *Transcript of Evidence*, 13 June 2018, p.15.

MR MICHAEL PARSONS

8.9 In his submission to the inquiry, Mr Michael Parsons advised the Committee that:

These increases are significant and have been implemented through stealth and deception. Prior to the 2016 election the ACT opposition claimed that re-election of the then Labor Government would lead to significant increases in rates and other charges to cover the costs of various policies and programmes that were being pursued by the government.⁵⁵²

8.10 The submission advised that:

This was strongly denied at the time by the Government. We now see that these denials were a lie. The rates that I pay on my investment properties has increased by 54% and my land tax by 64%. Such increases bear no resemblance to any form of realty. The realities of our current world are increasing CPI figures and stagnant wage growth.⁵⁵³

8.11 The submission advised that, in view of this:

Such a plan should have been placed before the electorate before the 2016 election, not denied as it was.⁵⁵⁴

8.12 The submission also put the view that it was:

through such deceitful implementation of an action that has no basis in either logic or fairness that today's politicians are held with ever increasing levels of contempt. They should have had the decency to place their plans for what is a substantive change to their revenue raising structure before the electorate in 2016.⁵⁵⁵

MS FRANCES DAVIES

8.13 In her submission to the inquiry, Ms Frances Davies advised the Committee that while there was 'forewarning of an increase in rates for 2017-18', there was 'no indication that the formula would be changed so that owners of apartments and town-houses would be impacted both significantly and disproportionately', and there had been 'no indication at all' as to how this was 'consistent with changes to Land Tax'.⁵⁵⁶

⁵⁵² Submission No. 61, Mr Michael Parsons.

⁵⁵³ Submission No. 61, Mr Michael Parsons.

⁵⁵⁴ Submission No. 61, Mr Michael Parsons.

⁵⁵⁵ Submission No. 61, Mr Michael Parsons.

⁵⁵⁶ Submission No. 55, Ms Frances Davies, p.2.

RATIONALE

- 8.14 A number of contributors to the inquiry raised concerns as to the degree to which the rationale for the change in methodology, put forward by the ACT government, could be considered logically coherent and defensible.

MR JACK EVANS

- 8.15 In his submission to the inquiry, Mr Jack Evans advised the Committee that:

This attack on strata properties has been variously attempted to be justified as better aligning rates on units with those on freestanding homes (Treasury spokeswoman as reported by the Canberra Times 5 September 2017). The spokeswoman goes on to claim there is a significant under payment of rates by units because they represent 29% of properties but paid 17% of rates under the previous charging regime.⁵⁵⁷

- 8.16 However, the submission advised:

When the fixed charge per property is \$1,089, what was not acknowledged was that stratas represent considerably less than 17% of the ACT's total residential AUV.⁵⁵⁸

- 8.17 In light of this, the submission advised that:

even before these changes were introduced, if measured by their relative proportion of the ACT's total of AUV, strata properties were being more heavily taxed than houses.⁵⁵⁹

- 8.18 Regarding these arguments, the submission put the view that:

If Treasury want to determine rates so that if stratas are 29% of properties then they pay 29% of rates, then call it for what it is: a Poll Tax on properties!⁵⁶⁰

- 8.19 However, the submission advised:

A different set of reasons to justify these changes were advanced by [the] Director of Budget and Economic Policy, Chief Minister's Office. Her email of 16 February 2018 is at Attachment 1 where the fundamental justification is explained as:

'Under the previous methodology, someone with a \$500,000 unit in the City paid about \$400 a year less in rates than someone with a freestanding home

⁵⁵⁷ Submission No. 97, Mr Jack Evans, p.1.

⁵⁵⁸ Submission No. 97, Mr Jack Evans, p.1.

⁵⁵⁹ Submission No. 97, Mr Jack Evans, p.1.

⁵⁶⁰ Submission No. 97, Mr Jack Evans, p.1.

worth the same amount in Charnwood. We do not believe that was fair or equitable.

Even after the methodology change average rates on units are significantly lower at \$1,352 per year, compared with \$2,295 a year on average for freestanding homes.’⁵⁶¹

8.20 Regarding this argument, the submission advised that the Director:

conveniently omits to acknowledge the extent to which the improved value of the average house exceeds that of the average apartment. If, as I suspect it is, strata units’ average improved value (AIV) is less than half that of the average AIV of houses then, by [the Director’s] measure of fairness and equity, strata units are being overtaxed.⁵⁶²

8.21 It also stated that the Quinlan Review ‘went no further than proposing that a “site value” be adopted for rates, land tax and lease variation charges’; that in this way it ‘specifically excluded the concept of taxing based on “improved value”’; and that this was nevertheless ‘the very justification advanced’ by the Director.⁵⁶³

8.22 In addition, the submission advised the Committee:

If, as advised by Treasury, strata units paid 17% of residential rate revenue in 2016/17 then, given the significant fixed charge component, strata unit’s share of AUV must be substantially less than 17%.⁵⁶⁴

8.23 The submission advised that:

Without data to assess the circumstances, one’s suspicions would be that strata units would also account for substantially less than that this 17% threshold if measured on an equivalent AIV basis.⁵⁶⁵

8.24 Regarding this, the submission stated that if ‘overall’ strata units were ‘paying a greater amount than their share of AIV’ it made ‘a mockery of isolated examples’, provided by the government, ‘of one type of strata unit paying less than one type of freestanding house’.⁵⁶⁶

⁵⁶¹ Submission No. 97, Mr Jack Evans, pp.1-2.

⁵⁶² Submission No. 97, Mr Jack Evans, p.2.

⁵⁶³ Submission No. 97, Mr Jack Evans, p.3.

⁵⁶⁴ Submission No. 97, Mr Jack Evans, pp.2-3.

⁵⁶⁵ Submission No. 97, Mr Jack Evans, p.3.

⁵⁶⁶ Submission No. 97, Mr Jack Evans, p.3.

- 8.25 The submission noted that ‘representative quoted in the Canberra Times (5 September 2017) claimed “some 32,783 units or 72% of all Canberra apartments remain in the lowest marginal rating category, below the \$150,000 threshold”.⁵⁶⁷
- 8.26 Regarding this, the submission stated that ‘for that claim to hold water the aggregate value of each separate complex in which those units are housed has to be below the \$150,000 threshold’, and that this ‘defies credibility’.⁵⁶⁸
- 8.27 Reflecting on this line of argument, the submission advised that this:
leads one to ponder whether Treasury fully comprehends the enormity of the consequences unless such calculations have been “massaged” by strategic utilisation of the “generous” once only \$100 rebate for strata units provided in the 2017/18 budget.⁵⁶⁹
- 8.28 However, what the Treasury data did highlight, the submission advised, was that the ‘overwhelming numbers of strata units in the ACT are relatively modest dwellings’ and that ‘the so called “foreshore penthouses” comprise a relatively minor component of the strata population’.⁵⁷⁰

MR ROD MANN

- 8.29 In his submission to the inquiry, Mr Rod Manns advised the Committee that in his view the new methodology did not have ‘a clear, robust policy rationale’:
The Government’s policy rationale is not entirely clear but appears to be that unit owners should pay rates based on a comparison of unit and house improved values/rental returns, and that unit owners were not paying their ‘fair share’ under the previous system. The Government has not provided cogent evidence for either assertion. The former is particularly spurious because the rates system is legislatively based on unimproved land values.⁵⁷¹
- 8.30 These views were expanded upon further into the submission, where it stated that:
The first aspect of the Government’s apparent rationale is spurious. The *Rates Act 2004* is clear that rates are based solely on unimproved land values. Improved values, or

⁵⁶⁷ Submission No. 97, Mr Jack Evans, p.7.

⁵⁶⁸ Submission No. 97, Mr Jack Evans, p.7.

⁵⁶⁹ Submission No. 97, Mr Jack Evans, p.7.

⁵⁷⁰ Submission No. 97, Mr Jack Evans, p.7.

⁵⁷¹ Submission No. 7, Mr Rod Manns, p.1.

rental returns which have also been mentioned in some Government statements, have no place in the legislation.⁵⁷²

8.31 In support, the submission advised:

The Government has provided isolated, and perhaps merely hypothetical, examples to support this rationale. Statements supporting it have variously made an unqualified generalisation about house and unit values, or have qualified it with 'often' or 'typically'.⁵⁷³

8.32 The submission also advised that the 'second aspect of the Government's apparent rationale' did not 'make sense':

Total rates revenue from units would not be expected to be similar to that from houses under any reasonable system based on taxing land wealth. The total land value of units in the ACT is self-evidently a fraction of the total value of house blocks.⁵⁷⁴

8.33 The submission also put the view that the methodology was 'illogical':

The marginal rate applied to units is now based on the value of land owned by all owners in a block. This treats all unit owners as if they were more land-rich than they are. Without any apparent logic, it takes account of assets owned by someone other than the individual unit ratepayer. In addition, there is no logical connection between the new methodology for units and the ongoing one for houses.⁵⁷⁵

8.34 Rather, it advised the Committee:

Unit owners already paid, and continue to pay, the same fixed rates charges and levies as house owners. Unit owners were, and are, generally paying more than their fair share towards government services through this element of rates.⁵⁷⁶

8.35 Regarding valuing in-aggregate for unit-titled properties, the submission advised that the *Rates Act 2004* had 'always required that a unit block of land be valued as if it were a single parcel', although this was not the case for 'house blocks that were part of a larger block before subdivision'.⁵⁷⁷

⁵⁷² Submission No. 7, Mr Rod Manns, p.2.

⁵⁷³ Submission No. 7, Mr Rod Manns, p.2.

⁵⁷⁴ Submission No. 7, Mr Rod Manns, p.2.

⁵⁷⁵ Submission No. 7, Mr Rod Manns, p.1.

⁵⁷⁶ Submission No. 7, Mr Rod Manns, p.2.

⁵⁷⁷ Submission No. 7, Mr Rod Manns, p.2.

- 8.36 'In reality', the submission advised, 'once divided into unit titles, a block would have to be acquired from multiple title owners if a purchaser wanted to buy the whole block', and because 'a purchaser would have to negotiate and bear the cost of dealing with multiple unit title holders', this would mean that under such circumstances 'a unit titled block would be less valuable than it was as a single parcel'.⁵⁷⁸
- 8.37 In light of this, the submission advised, it was 'arguable that unit owners therefore suffer from over-valuation of their land' and consequently paid 'more than their fair share through higher land valuation rates than house owners', whether that was calculated under 'either the old or new methodology'.⁵⁷⁹
- 8.38 When it came to expanding on the argument that the methodology was 'illogical', the submission advised that land rates were 'essentially a tax on wealth in the form of land ownership'.⁵⁸⁰
- 8.39 In light of this, the submission advised that the new methodology was illogical for three reasons.
- 8.40 First, the submission advised, the methodology:
- treats owners of a fraction of a block the same as a single owner of the entire block (perhaps the developer before subdivision). For example, a unit block with a land value of \$10 million could be owned individually only by a very wealthy 'land-rich' person. Divided into 100 unit titles, each unit owner would have only a modest \$100,000 worth of land. Under the new methodology these owners with little land wealth pay rates at the same marginal rate as would a wealthy single owner of the entire block.⁵⁸¹
- 8.41 Second, the submission advised:
- rates on a unit are now based on the value of the land owned by a unit owner and all the other owners in the block combined. If this approach applied to income tax, a unit resident's income would be subject to the marginal tax rate applicable to the aggregate income of all residents in a unit block. A low-income resident would pay the same marginal tax rate as a high-income resident. This would be absurd.⁵⁸²

⁵⁷⁸ Submission No. 7, Mr Rod Manns, p.2.

⁵⁷⁹ Submission No. 7, Mr Rod Manns, p.3.

⁵⁸⁰ Submission No. 7, Mr Rod Manns, p.3.

⁵⁸¹ Submission No. 7, Mr Rod Manns, p.3.

⁵⁸² Submission No. 7, Mr Rod Manns, p.3.

8.42 Third, the submission advised, ‘the new methodology applies only to units’:⁵⁸³

If a large block of land is subdivided into single title townhouses or houses, the owners pay rates at the marginal rate for their individual land wealth, not the value of the original block. Owners of houses in a street or single title townhouses in an estate do not have their rates calculated on the basis of the aggregate value of their neighbours’ blocks.⁵⁸⁴

MS JANE GODTSCHALK

8.43 In her submission to the inquiry, Ms Jane Godtschalk advised the Committee that:

Because of the vagaries of the combination of a valuation-based charge with various fixed charges, the increases in the total rates bill vary across apartments in a counter-intuitive fashion.⁵⁸⁵

8.44 The submission advised that:

As shown in the examples at the beginning [of the submission] the greatest percentage increases in total rates occur for those apartments in the middle of the range of apartment values. The peak increase in the Valuation Based Charge is about 106% (a more than doubling) for the lowest-valued apartments. The peak increase in total rates bill is around 35% for an apartment with a unit entitlement of around 0.58%.⁵⁸⁶

8.45 Regarding these outcomes of the revised methodology, Ms Godtschalk advised the Committee that it was ‘impossible to see any logic in this pattern’.⁵⁸⁷

MR TED QUINLAN

8.46 In his submission to the inquiry, Mr Ted Quinlan advised the Committee that ‘Budget papers justify the change by comparing rates paid for houses and for units’ on the grounds that ‘premises of a similar total value are charged different amounts’.

⁵⁸³ Submission No. 7, Mr Rod Manns, p.3.

⁵⁸⁴ Submission No. 7, Mr Rod Manns, p.3.

⁵⁸⁵ Submission No. 20, Ms Jane Godtschalk, p.4.

⁵⁸⁶ Submission No. 20, Ms Jane Godtschalk, p.4.

⁵⁸⁷ Submission No. 20, Ms Jane Godtschalk, p.4.

8.47 In the submission, Mr Quinlan advised that this ‘new treatment of units’ (that is, having regard to market value) was ‘an expedient departure from the principle of using unimproved value’.⁵⁸⁸

8.48 However, when Mr Quinlan appeared before the Committee in hearings of 13 June 2018, he put another view.⁵⁸⁹

8.49 He told the Committee that in the 2016 budget the ACT government, had identified ‘a legitimate problem’, which was ‘the fact that the unit value of land prescribed to units is much lower than to residences’. As a result, he told the Committee, ‘on a straight one-to-one basis, unit owners in a very plush unit could be paying a lot less rates than someone just down the road in a pretty standard detached home’.⁵⁹⁰

8.50 When asked in what circumstances this would occur, Mr Quinlan told the Committee:

The circumstances already existed. I think, in fact, that when you look at the average unimproved value of land under a given unit, it is a whole lot less than a comparable detached house. That is in the 2016 budget. That issue of the government identifying that maybe we are not getting enough rates from unit owners is what I think precipitated the change ...⁵⁹¹

8.51 He told the Committee that:

If you go back and look at the rates that apply to units—in fact, if you look at the unimproved value of units spread over the whole complex versus an individual house—there is a tremendous difference. That might explain, to a large degree, why there are so many unit complexes being built and so few detached houses being built.⁵⁹²

8.52 He told the Committee that:

It is because, in fact, the raw cost—the basic cost of land for housing—is quite substantially different in those two sectors, units as opposed to detached housing. Of course, because we are still using unimproved value, that actually then gives rise to a lower calculation of rates for a unit, as opposed to a detached house.⁵⁹³

⁵⁸⁸ Submission No. 33, Mr Ted Quinlan

⁵⁸⁹ *Transcript of Evidence*, 13 June 2018, p.22 ff.

⁵⁹⁰ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.23.

⁵⁹¹ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.23.

⁵⁹² Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, pp.23-24.

⁵⁹³ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.24.

OTHER CONTRIBUTORS

- 8.53 Other contributors also expressed concerns about the extent to which the ACT government's revised methodology on rates and land tax was logically coherent and defensible.⁵⁹⁴

SOURCES OF FUNDING FOR STATE-TYPE SERVICES

- 8.54 Contributors to the inquiry considered sources of funding for state-type services. In particular, some contributors considered whether municipal services — in effect — were provided by government in exchange for the levying of municipal rates and land tax.
- 8.55 This view had been resisted by government representatives when they appeared before the Committee, who put the view that revenue municipal rates and land tax funded state-type services, such as health and education, and that the ACT government did not 'hypothecate' municipal rates to fund municipal services.⁵⁹⁵
- 8.56 Other contributors considered the relationship between municipal rates and municipal services relevant to the question of whether increased rates and land tax, under the revised methodology, could be considered reasonable.

MR PHILIP BARON

- 8.57 Mr Philip Baron, when he appeared before the Committee in hearings of 13 June 2018, questioned ACT government assertions that municipal rates and land tax funded health, education and similar services because, he said 'that is actually funded largely by way of commonwealth grants—that is, by part of your [income] tax'.⁵⁹⁶

MS JANE GODTSCHALK

- 8.58 Ms Jane Godtschalk, in her submission to the inquiry, put a similar view. She advised the Committee that:

By far the largest component of ACT Government revenue is grants from the Commonwealth, comprising the ACT's share of GST revenue plus various other forms

⁵⁹⁴ See: Submission No. 63, Mr David King, pp.2-3; Submission No. 56, Ms Melita Dahl, p.1; and Submission No. 25, Mr Mike Buckley, p.1.

⁵⁹⁵ Mr David Nicol, *Proof Transcript of Evidence*, 8 August 2018, p.70.

⁵⁹⁶ Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.1.

of general and specific purpose assistance. Together these account for just over 40% of revenue. This is the main source of funding for the ACT's State-like services.⁵⁹⁷

8.59 This being the case, the submission advised:

It could therefore be argued that the ACT Government's State-like expenditure responsibilities are irrelevant to an examination of how it levies residential general rates.⁵⁹⁸

8.60 'In any case', the submission advised:

the claimed rationale quoted above provides no basis for the suggestion that equity between ratepayers in the rates they pay should depend in some unstated manner on how the ACT Government spends its revenues.⁵⁹⁹

8.61 Rather, there was 'a respectable argument that the Commonwealth government is responsible for, and best placed to deal with, financial equity between citizens through its taxation and income transfer systems'.⁶⁰⁰

8.62 While the submission did not 'advocate the conclusion that could be drawn from such a view' — that is 'that municipal services ought to be funded by a poll tax' — the submission questioned 'the simplistic view' that the ACT Government 'ought to change its rates structure with the objective of giving it a greater redistributive role'.⁶⁰¹

MR TED QUINLAN

8.63 When Mr Ted Quinlan appeared before the Committee in hearings of 13 June 2018 the Committee asked whether the ACT was different from other jurisdictions in that it was necessary for revenue from municipal rates and land tax to be put toward meeting the cost of state-type services.⁶⁰²

8.64 In responding to the question, Mr Quinlan told the Committee:

I have heard that assertion made. That is, if you like, an arbitrary decision that governments can make as to whether the government should in fact confine rates collection to providing the services that are provided in all other jurisdictions by rates

⁵⁹⁷ Submission No. 20, Ms Jane Godtschalk, p.6.

⁵⁹⁸ Submission No. 20, Ms Jane Godtschalk, p.6.

⁵⁹⁹ Submission No. 20, Ms Jane Godtschalk, p.6.

⁶⁰⁰ Submission No. 20, Ms Jane Godtschalk, p.6.

⁶⁰¹ Submission No. 20, Ms Jane Godtschalk, pp.6-7.

⁶⁰² *Transcript of Evidence*, 13 June 2018, p.23.

or whether Canberra is so unique that we actually need to derive income out of the rating base for virtually state-level revenue generation, as opposed to municipal-level generation.⁶⁰³

8.65 Mr Quinlan told the Committee:

We have an overlap, and it has grown over time. Past treasurers can be blamed for that in part, I suppose. Nevertheless it might have been wise back then, in hindsight, to try and isolate rates to city and municipal services and then other revenues to state-level services.⁶⁰⁴

8.66 However, he told the Committee, the particular circumstances of states and territories in Australia were provided for by allocations of funding by the Commonwealth Grants Commission. This included the ACT receiving ‘compensation through GST allocations for our inability to tax at the same rate as other states’, calculated on the basis of Horizontal Fiscal Equalisation.⁶⁰⁵

8.67 Mr Quinlan told the Committee that:

The Commonwealth Grants Commission does that for everybody. On average half the states have a less than average capacity to generate revenue, and the bigger states have a more than average capacity to generate revenue. So the Grants Commission’s whole *raison d’être* is to create equity among citizens in a given jurisdiction as opposed to others.⁶⁰⁶

TAXATION REVIEW

8.68 Contributors to the inquiry considered whether the revised methodology for rates and land tax was consistent with the recommendations of the ACT Taxation Review of 2012. This is commonly known as the ‘Quinlan review’, and was conducted by a contributor to the present inquiry, Mr Ted Quinlan.⁶⁰⁷

⁶⁰³ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.23.

⁶⁰⁴ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.23.

⁶⁰⁵ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.23.

⁶⁰⁶ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.23.

⁶⁰⁷ ACT Government, ACT Taxation Review, May 2012, viewed 25 May 2018, available at: <http://www.treasury.act.gov.au/documents/ACT%20Taxation%20Review/ACT%20Taxation%20Review%20May%202012.pdf>

- 8.69 In his submission to the inquiry, Mr Mike Buckley advised that the Quinlan review had found that the 'general rates system provides the ACT with a broad, transparent and efficient tax base on which to raise the taxation revenue required to provide services'.⁶⁰⁸
- 8.70 The submission stated that after the completion of the review the ACT government:
commenced a program of tax reforms which encompassed the phased removal of harmful taxes such as stamp duty on insurance products and residential conveyances. Revenue foregone from these taxes was to be replaced by an increase in general rates and more transparent charges e.g. emergency fire service levy.⁶⁰⁹
- 8.71 The submission advised that the Quinlan review had found that:
Under the ACT's current rating system, smaller blocks pay a larger amount of general rates on a dollar per square metre basis than larger blocks. This imposes a disproportionate burden on households that consume and use land more efficiently. It reduces the overall progressivity of general rates.⁶¹⁰
- 8.72 The submission advised that the review had noted that 'the fixed component of the general rate was the same irrespective of the size of the property' and that it recommended 'that the tax system be made more equitable by increasing the progressive nature of the tax'.⁶¹¹
- 8.73 To this end, the submission advised, 'an additional tax fifth tax bracket was added to the rating scale for determining the valuation component of the general rate'. Previously, top tax bracket was \$450,000: the new bracket 'added a higher rate of tax for residences with an AUV greater than \$600,000'.⁶¹²
- 8.74 When he appeared before the Committee in hearings of 13 June 2018, Mr Ted Quinlan, who conducted the 2012 ACT tax review, was asked whether the current methodology for determining rates and land tax for strata residences had been part of the review.⁶¹³
- 8.75 In responding, Mr Quinlan told the Committee that this was 'not mentioned' in the context of the review. The 'only issue that was discussed and debated, and probably not completely resolved', was whether someone should 'pay greater rates automatically if they had a greater area of land that they were occupying'. He considered that they should not.⁶¹⁴

⁶⁰⁸ Submission No. 25, Mr Mike Buckley, p.2, citing ACT Taxation Review, May 2012, p.175.

⁶⁰⁹ Submission No. 25, Mr Mike Buckley, p.2.

⁶¹⁰ Submission No. 25, Mr Mike Buckley, p.2, citing ACT Taxation Review, May 2012, p.92.

⁶¹¹ Submission No. 25, Mr Mike Buckley, p.2.

⁶¹² Submission No. 25, Mr Mike Buckley, p.2.

⁶¹³ *Transcript of Evidence*, 13 June 2018, p.23.

⁶¹⁴ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.23.

ASSESSMENT BASED ON UNIMPROVED OR MARKET VALUE

- 8.76 A number of contributors to the inquiry considered the ACT government's arguments in favour of the revised methodology in terms of assessment based on unimproved or market value.

MS JANE GODTSCHALK

- 8.77 In her submission to the inquiry, Ms Jane Godtschalk advised the Committee that:

several forms of "realignment" are at work in the new methodology. One is between rates on freestanding homes and apartments with equivalent market values. Another is within multi-unit complexes, with the least valuable apartments suffering the greatest increase in the Valuation Based Charge and the most valuable experiencing the lowest increase. A third is between larger and more valuable complexes and smaller, less valuable complexes.⁶¹⁵

- 8.78 Regarding this, the submission advised that:

It is obvious that if, as is demonstrably the case, apartments within a multi-unit complex are experiencing increases in the Valuation Based Charge in inverse relation to their value, then there can be no general "better alignment" with rates on freestanding homes.⁶¹⁶

- 8.79 The submission advised what was more 'fundamental' was the question of 'what "alignment" ought to consist of':

The clear assumption is that rates ought to be more reflective of the market value of residences, not the unimproved value of the land on which they stand. Those with high-valued apartments ought to pay as much as those with equivalently valued houses.⁶¹⁷

- 8.80 However, Ms Godtschalk advised in her submission, this represented 'a huge change in the historical basis for levying rates in Australia'.⁶¹⁸

⁶¹⁵ Submission No. 20, Ms Jane Godtschalk, p.5.

⁶¹⁶ Submission No. 20, Ms Jane Godtschalk, p.5.

⁶¹⁷ Submission No. 20, Ms Jane Godtschalk, p.5.

⁶¹⁸ Submission No. 20, Ms Jane Godtschalk, p.5.

- 8.81 Under the new methodology, ‘the actual structure of rates flies in the face of the claimed norm based on market values’, and ‘the rationale appeals to some notions of equity that are not spelt out and can be seen to be incoherent’.⁶¹⁹
- 8.82 If, the submission suggested, was to ‘equate rates payable for homes of equal market value’, then ‘why not simply use market value in place of unimproved value of land’? While this was not the preferred approach, ‘it would follow as night follows day from the objective that is presented as the basis for the methodology change’. The revised methodology was not merely ‘an imperfect way of achieving a market-based rate structure’; it could not ‘begin to achieve it’ and instead had ‘perverse results’.⁶²⁰
- 8.83 The submission then went on to consider the significance of the fixed component of rates.
- 8.84 The submission stated that:
- the current rates structure contains a significant fixed component of \$1,089 for 2017-18 (setting aside the one-off rebate on the basis that it is not intended to be a permanent feature of the rates structure). Indeed, the fixed component accounts for far more than half of total rates payable by smaller apartments even under the new methodology, where the Valuation Based Charge has more than doubled. It is a correspondingly high proportion of the rates for stand-alone dwellings on land with relatively low unimproved value.⁶²¹
- 8.85 The submission then asked as to the rationale for the fixed component, and suggested that there were two possibilities.⁶²²
- 8.86 One was that the ‘The cost of providing services to households’ was ‘obviously unrelated – at least in any reasonably direct way – to the value of either the land or the homes of those households’, and that although the cost was ‘far from uniform across households’, there was ‘some attraction in simply apportioning the cost equally across households’.⁶²³
- 8.87 An alternative rationale for the fixed component, the submission suggested, was ‘to produce a more politically acceptable outcome by deliberately reducing the progressivity of the rates structure’.⁶²⁴

⁶¹⁹ Submission No. 20, Ms Jane Godtschalk, p.5.

⁶²⁰ Submission No. 20, Ms Jane Godtschalk, p.5.

⁶²¹ Submission No. 20, Ms Jane Godtschalk, pp.5-6.

⁶²² Submission No. 20, Ms Jane Godtschalk, p.6.

⁶²³ Submission No. 20, Ms Jane Godtschalk, p.6.

⁶²⁴ Submission No. 20, Ms Jane Godtschalk, p.6.

- 8.88 Without the fixed component, the submission advised, ‘a lower proportion of rates would be collected from households with higher valued assets, whether those assets took the form of ‘unimproved land values or market values’.⁶²⁵
- 8.89 The submission advised that these arguments were put not to advocate ‘removal of the fixed components’, but rather to ‘point out that their existence is at odds with any conception of “alignment” of rates based on market values’.⁶²⁶
- 8.90 At a later point, the submission returned to consider arguments regarding market value ‘versus unimproved land value’ as the basis of assessment for rates and land tax.⁶²⁷
- 8.91 The submission advised that it appeared ‘integral’ to the ACT government’s rationale for the revised methodology to assert that ‘[e]ven after the methodology change average rates on units are significantly lower at \$1,352 per year, compared with \$2,295 a year on average for freestanding homes’.⁶²⁸
- 8.92 However, the submission advised, this comparison was ‘utterly meaningless without further context’ that is, without more specific information being provided on land values, market values and ‘costs of service provision between multi-unit complexes and freestanding homes’.⁶²⁹
- 8.93 With regard to this, the submission stated that
- it was ‘staggering’ that ‘anyone should be surprised that rates on units are on average lower than rates on freestanding homes’;
 - that it was ‘disturbing’ that ‘anyone should consider that the difference should be corrected, without the slightest analysis’; and that
 - claims that ‘basing rates more on market value than on unimproved capital value is automatically fairer’ should be ‘subjected to scrutiny’.⁶³⁰

⁶²⁵ Submission No. 20, Ms Jane Godtschalk, p.6.

⁶²⁶ Submission No. 20, Ms Jane Godtschalk, p.6.

⁶²⁷ Submission No. 20, Ms Jane Godtschalk, p.7.

⁶²⁸ See for example Submission No. 56 – Melita Dahl, p.4, Appendix A.

⁶²⁹ Submission No. 20, Ms Jane Godtschalk, p.7.

⁶³⁰ Submission No. 20, Ms Jane Godtschalk, p.7.

8.94 In conclusion, the submission advised the Committee that:

- rates assessments ‘based on unimproved values’ had ‘served the country well’, and that for these purposes the ACT ‘not significantly different in relevant ways from other parts of Australia’, ‘in particular given the variety of sources of its revenue’;⁶³¹
- the ‘claimed rationale for changing the methodology does not stand up to scrutiny’;⁶³²
- the ‘changed methodology as implemented’ was ‘a shemozzle’ as it was ‘ill thought-through’ and gave rise to ‘massive inequities’;⁶³³
- the ‘changes impact disproportionately on those least able to afford them’, including tenants who, because they were ‘more highly represented in units compared to freestanding homes’, would be ‘particularly hard hit as rate increases are passed through into rents’;⁶³⁴ and that
- at ‘the very least, such a major change in the way the ACT government raises revenue from its residents ought to be properly analysed, explained, subjected to consultation with Territory residents, and approved by a majority’.⁶³⁵

MR MIKE BUCKLEY

8.95 In his submission to the inquiry, Mr Mike Buckley advised the Committee that the ACT government’s ‘observation’ that:

the increase in the general rate for residences with relatively low AUVs has been less than that of properties with higher AUVs implies that this was an unintended outcome and at odds with the rationale for the first stage of the tax reform measure.⁶³⁶

8.96 However, the submission advised, the ACT Taxation Review had noted that ‘properties with a relatively low AUV paid more in general rates when measured on the basis of tax paid per square metre of land’ and ‘recommended that this “inequity” be addressed’.⁶³⁷

⁶³¹ Submission No. 20, Ms Jane Godtschalk, p.7.

⁶³² Submission No. 20, Ms Jane Godtschalk, p.7.

⁶³³ Submission No. 20, Ms Jane Godtschalk, p.7.

⁶³⁴ Submission No. 20, Ms Jane Godtschalk, p.7.

⁶³⁵ Submission No. 20, Ms Jane Godtschalk, p.7.

⁶³⁶ Submission No. 25, Mr Mike Buckley, p.2.

⁶³⁷ Submission No. 25, Mr Mike Buckley, p.2.

8.97 Commenting on this, the submission stated that it appeared that the ACT government had taken this ‘policy objective’ out of context and ‘recharacterized’ it ‘as a justification for changing the rating methodology for multi-unit dwellings’.⁶³⁸

8.98 Commenting on an example provided by the ACT government,⁶³⁹ the submission put the view that comparisons of ‘the market value of a city unit and a dwelling in Charnwood and their respective AUVs is deceptive and irrelevant’⁶⁴⁰ as:

The fixed component of the general rate is the same for all residential dwellings irrespective of location or the size of the block. The valuation-based component of the general rate is calculated according to the unimproved land value of the residential block. The reference to the market value of the property which comprises both the land value and the capital structure is not relevant to any assessment of the equity of the tax.⁶⁴¹

8.99 Regarding this example, the submission advised that the ‘principal reason why the dwelling in Charnwood has a higher AUV (and a higher general rate) than a city apartment is explained by the amount of land it occupies’, and stated that the ‘fact that multi-unit dwellings pay less in general rates than single dwellings with similar market values’ was ‘not an equity issue as understood by the ACT Taxation Review 2012’.⁶⁴²

8.100 A further section of Mr Buckley’s submission asked why references to the market value of residences was ‘wrong’.⁶⁴³

8.101 The submission advised that unimproved land value was ‘the traditional basis for calculating general rates’. Basing taxation on unimproved land value was ‘seen to have the advantage of not discouraging new development’. If properties were assessed on the basis of market value then ‘at the margin households will invest less in their houses than they otherwise would have’.⁶⁴⁴

8.102 The submission advised that by ‘referring to the market value of a residence to assess the equity of the general rate the government has introduced an apples and oranges

⁶³⁸ Submission No. 25, Mr Mike Buckley, p.2.

⁶³⁹ See Mr Andrew Barr MLA, Legislative Assembly for the ACT, *Debates*, 13 September 2017, p.3684.

⁶⁴⁰ Submission No. 25, Mr Mike Buckley, p.2.

⁶⁴¹ Submission No. 25, Mr Mike Buckley, p.2.

⁶⁴² Submission No. 25, Mr Mike Buckley, p.3.

⁶⁴³ Submission No. 25, Mr Mike Buckley, p.5.

⁶⁴⁴ Submission No. 25, Mr Mike Buckley, p.5.

comparison' in that, in adopting 'a market value benchmark', it had 'failed to take account of some fundamental differences between multi-units and single dwellings'.⁶⁴⁵

8.103 Regarding this, the submission advised the Committee:

In the case of single dwellings, a significant proportion of the market value consists of what is underneath the building. By way of example from Barton, the most recent single dwelling sale on Macquarie Street was for \$1.3 million in July 2016. At that time the unimproved land value was \$933 000.⁶⁴⁶

8.104 In contrast, the submission advised:

In 2016 the insured value of the common property of the Barton Units Plan was \$55 million, more than 5 times the value of its land.⁶⁴⁷

8.105 This, the submission advised, underscored the fact that the 'principal asset of the unit owner is the building structure'. It was for this reason that the *Unit Titles Act* required Owners Corporations 'to protect the value of the building'. This was evidenced in the fact that:

- 'insurance policies were intended to cover the building to the maximum extent possible';
- owners corporations were 'required to prepare a sinking fund to cover the replacement of aged assets'; and
- 'fire and emergency obligations are greater for multi-unit complexes than single dwellings'.⁶⁴⁸

8.106 Regarding these, the submission advised that these obligations required expenditures not required for owners of single dwellings.⁶⁴⁹

8.107 The submission advised that the point of indicating these costs was 'not to criticise these obligations', but was rather to 'identify why the market value of units may appear high relative to a single dwelling'.⁶⁵⁰

8.108 The submission stated that it was possible for the owner of a single dwelling to 'ignore modernising their property and even some maintenance and the impact on the market

⁶⁴⁵ Submission No. 25, Mr Mike Buckley, p.5.

⁶⁴⁶ Submission No. 25, Mr Mike Buckley, p.5.

⁶⁴⁷ Submission No. 25, Mr Mike Buckley, p.5.

⁶⁴⁸ Submission No. 25, Mr Mike Buckley, p.5.

⁶⁴⁹ Submission No. 25, Mr Mike Buckley, p.5.

⁶⁵⁰ Submission No. 25, Mr Mike Buckley, p.5.

value of the property would be small', however if a multi-unit complex were to adopt a similar approach 'market values could be affected significantly'.⁶⁵¹

8.109 Taking these factors into account, the submission advised that for the ACT government to assert:

that residential unit holders should pay a general rate established on a different basis to that of single residences because of a one-off comparison of the relative market values city units and suburban dwellings represents a failure by Treasury to properly inform the decision-making process.⁶⁵²

OTHER CONTRIBUTORS

8.110 Other contributors also made comment on unimproved and improved value of properties as considerations in the context of the revised methodology.⁶⁵³

ADVICE AND CONSULTATION

8.111 A number of contributors to the inquiry raised concerns regarding the degree to which they were advised of changes to the methodology — before implementation — or how their questions were answered after the revised methodology was put in place.

8.112 Mr Peter Davies, in his submission to the inquiry, advised the Committee that in his view:

The introduction of this changed methodology has been poorly conceived and poorly implemented. Discussion with representatives of apartment owners has been negligible and had those discussions taken place, then the government may well not have been returned.⁶⁵⁴

8.113 When Mr Rod Manns appeared before the Committee in hearings of 4 July 2018, he was asked whether had received any information from the ACT government seeking to justify the change. In responding to the question, he told the Committee:

No, not directly. I am aware that the government published various statements, and I have given a bit of a summary of those in my submission—mostly after the event, I have to say. I have had considerable correspondence with the Chief Minister and Treasurer and his directorate, in which I have been given a bit of a moving feast of

⁶⁵¹ Submission No. 25, Mr Mike Buckley, p.5.

⁶⁵² Submission No. 25, Mr Mike Buckley, p.5.

⁶⁵³ See: Submission No. 7, Mr Rod Manns, pp.1-2; and Submission No. 53, Mr Gary Petherbridge, p.2.

⁶⁵⁴ Submission No. 62, Mr Peter Davies, p.2.

justifications. But as an ordinary ratepayer, in advance of the change coming into effect, I did not receive any detailed information about the implications of the change.⁶⁵⁵

8.114 A submitter who did not wish to be named advised the Committee that:

Many people I have spoken to are not aware of the way in which this calculation has been made. They have been too busy trying to survive the onslaught of price increases across multiple services, finding and staying in employment, keeping a roof over their heads and putting food on the table.⁶⁵⁶

8.115 When the submitter appeared before the Committee in hearings of 8 August 2018, questions were asked as to how the submitter became aware of the change in methodology. In responding, the submitter told the Committee that the first awareness of the changes came when the rates bill for the previous year was received.⁶⁵⁷

8.116 When asked to read out the bill, the submitter told the Committee the bill read as follows:

“Charges for your unit title property in 2017-18 have been calculated on the average unimproved value of the residential portion of the total unit complex, \$3,435,000, and your residential unit entitlement, based on the total residential portion of the unit complex, is 5.4000 per cent. See overleaf for further information.”⁶⁵⁸

8.117 The submitter told the Committee that then there was ‘a whole bunch of things that to me are unintelligible unless you have a maths degree’,⁶⁵⁹ and that the bill then went on to state that unit title developments were ‘treated as single property for valuation purposes’.⁶⁶⁰

8.118 Mr Alexander Popov, in his submission to the inquiry, advised the Committee — regarding communication about the revised methodology after it was introduced — that:

I do not feel the letters I received in 2017 from the ACT Chief Minister office addressed my concerns in a constructive way. I am not a politician and I do not think the ACT Chief Minister office representative needed to argue with me a) whether or not the change causes the rent increase or b) giving a bad advice to run my business in loss by not increasing the rents in response to the change ... As an ACT resident and a taxpayer

⁶⁵⁵ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.29.

⁶⁵⁶ Submission No. 96, [Name withheld], p.7.

⁶⁵⁷ *Proof Transcript of Evidence*, 8 August 2018, p.83.

⁶⁵⁸ *Proof Transcript of Evidence*, 8 August 2018, p.83.

⁶⁵⁹ *Proof Transcript of Evidence*, 8 August 2018, p.83.

⁶⁶⁰ *Proof Transcript of Evidence*, 8 August 2018, p.83.

I expected the ACT Chief Minister office to listen to my concerns and discuss the issue in a productive way.⁶⁶¹

VALUE FOR MONEY AND TRANSPARENCY

8.119 A number of contributors to the inquiry made a connection between additional costs in rates and land tax and the degree to which municipal services were adequate and methods for dealing with revenue were transparent.

8.120 A number of contributors also stated that they were not against paying tax in principal but that the recent changes to methodology had resulted in taxes that were not considered reasonable.

MS ANNIE GREGG

8.121 Ms Annie Gregg, in her submission to the inquiry, advised the Committee that she believed 'in fair taxes' and was 'happy to pay them to benefit the wider community', but the revised methodology 'shifts a burden on people who own or live in unit titled property'.⁶⁶²

MS FRANCES DAVIES

8.122 Ms Frances Davies, in her submission to the inquiry, advised the Committee that the Executive Committee of her complex commended the ACT government 'for being the only jurisdiction undertaking these reforms' and agreed that 'they introduce a broad and efficient revenue base', and supported 'the policy objectives, especially supporting the economy, housing affordability and improving the progressivity of taxes'.⁶⁶³

8.123 However, the submission advised, the Executive Committee believed that the government had 'severely undermined these objectives by introducing the changed methodology to the calculation of rates for units within a strata arrangement'.⁶⁶⁴

⁶⁶¹ Submission No.2, Mr Alexander Popov, p.3.

⁶⁶² Submission No. 43, Ms Annie Gregg.

⁶⁶³ Submission No. 55, Ms Frances Davies, p.1.

⁶⁶⁴ Submission No. 55, Ms Frances Davies, p.1.

MR PETER DAVIES

8.124 In his submission to the inquiry, Mr Peter Davies advised the Committee that:

Whilst our residents live in the Kingston Foreshore area, many feel that they are being treated as second class citizens. The lack of municipal services – street-sweeping, minimal number of garbage bins to cater for the commercial food businesses in the area (and especially the clearance of those bins) has left this part of the precinct looking decidedly less appealing than the eastern end of Eastlake Parade.⁶⁶⁵

8.125 The submission advised that:

The failure of TAMS to monitor and maintain infrastructure – other than on a reactive basis when reported by residents on “Fix my street”, is surely a failure by the government to provide the services required on a timely basis.⁶⁶⁶

8.126 In light of these matters, the submission went on to advise the Committee that:

If the increases in rates that have been borne by the residents of Waterfront Apartments were accompanied by a similar increase in the level of services received, then there might not be such an outcry from them.⁶⁶⁷

MR ED HIGHLEY

8.127 In his submission to the inquiry, Mr Ed Highley advised the Committee that:

Now in our seventies, we have lived in our modest ‘townhouse’ at [address withheld] Kambah, for more than thirty years. Our income is the age pension plus a very modest superannuation supplement. In recent years, as utility costs rise – electricity, gas, water – it has become increasingly hard for us to keep our budget in the black. It was thus an extra shock to us when, last year, our annual rates rose from \$797.89 to \$1,282.38, an increase of 61 per cent.⁶⁶⁸

8.128 The submission advised that:

I suppose that the financial shock would be somewhat ameliorated if we could see some benefit from it. There is none, however. The increase in rates is a ‘technical’ one that benefits nobody but the government. Our street gutters are still blocked with dead leaves, and the spine walk to the local shop is now just too depressing to

⁶⁶⁵ Submission No. 62, Mr Peter Davies, p.2.

⁶⁶⁶ Submission No. 62, Mr Peter Davies, p.2.

⁶⁶⁷ Submission No. 62, Mr Peter Davies, p.2.

⁶⁶⁸ Submission No. 17, Mr Ed Highley.

traverse; a vista of cracked paths, dead trees and shrubs, and piles of dead tree limbs. Local maintenance crews, if such indeed exist in Kambah, avoid it like the plague.⁶⁶⁹

8.129 In light of this, the submission advised, '[w]e believe that the rate increase is grossly unfair'.⁶⁷⁰

MR GARY PETHERBRIDGE

8.130 When he appeared before the Committee in hearings of 11 July 2018, Mr Gary Petherbridge, in answer to questions, told the Committee that:

On value for money, I can give you examples of individual one-bedroom apartments that may have had an unimproved valuation of about \$100,000-odd in 2016-17 and the same in 2017-18 but their rates went up by the numbers I just mentioned. So no extra benefits. There was no extra garbage collection; there were no extra roads in the areas; nothing extra was added. Health did not improve for them as a particular group. Whatever the services are, education did not improve for them. I do not think there has been any significant extra benefit for the costs they have had to pay.⁶⁷¹

MR ALEXANDER POPOV

8.131 In his submission to the inquiry, Mr Alexander Popov advised the Committee that:

As a member of Executive Committee in one of residential unit complexes I have seen no additional value added by the ACT Government since the change has been introduced to maintain internal or adjoining footpaths or roads in exchange for increased Rates and Land Tax or other services.⁶⁷²

8.132 Mr Popov was asked about this when he appeared before the Committee in hearings of 13 June. In responding he told the Committee that:

In my experience of having four properties and serving on executive committees—now on the second executive committee—I have not seen any substantial changes, basically, any extra services so far.⁶⁷³

⁶⁶⁹ Submission No. 17, Mr Ed Highley.

⁶⁷⁰ Submission No. 17, Mr Ed Highley.

⁶⁷¹ Mr Gary Petherbridge, *Proof Transcript of Evidence*, 11 July 2018, p.50.

⁶⁷² Submission No.2, Mr Alexander Popov, p.3.

⁶⁷³ Mr Alexander Popov, *Transcript of Evidence*, 13 June 2018, pp.16-17.

OTHER CONTRIBUTORS

8.133 Other contributors made comment on value for money and transparency in relation to rates and land tax.

8.134 Mr Gary Barnes, in his submission to the inquiry, advised the Committee that:

We want an open transparent explanation of the revenue collected in terms of the fixed amount per living dwelling and the rates and taxes on Unimproved value of the Land (not market value) and how this money is used (the services provided): and recognising that almost 50% of ACT revenue comes from Federal GST/Grants distribution and this is largely for State type functions like education and health.⁶⁷⁴

8.135 Other contributors made comment in similar terms.⁶⁷⁵

CHANGES TO STAMP DUTY

8.136 Contributors to the inquiry made comment statements by the ACT government stating that increases in rates and land tax would be offset by decreases in stamp duty.⁶⁷⁶

MR GARY PETHERBRIDGE

8.137 In his submission to the inquiry, Mr Gary Petherbridge advised the Committee that:

In general I did not hear from the community that they objected to the Government's plan to reduce (and eventually remove) Stamp Duty on Conveyancing and replace it with higher rates over a 20 year period.⁶⁷⁷

8.138 'However', he advised the Committee, he did:

hear concerns from the community including past executives of a past Labour Government that the Stamp Duty has hardly been reduced while the Rates and Land Tax have increased significantly and very quickly ...⁶⁷⁸

⁶⁷⁴ Submission No. 3, Mr Gary Barnes, p.2.

⁶⁷⁵ See: Submission No. 5, Mr Tim Dunnet; Submission No. 21, Mr Andrew Sutton.

⁶⁷⁶ See for example Mr Andrew Barr MLA, *Proof Transcript of Evidence*, 8 August 2018, pp.59, 76.

⁶⁷⁷ Submission No. 53, Mr Gary Petherbridge, p.1.

⁶⁷⁸ Submission No. 53, Mr Gary Petherbridge, p.1.

8.139 When he appeared before the Committee in hearings of 11 July 2018, Mr Petherbridge was asked questions regarding these statements. In responding, he told the Committee that:

In terms of the published amount of money that has come from stamp duty between one year and the next, it actually has gone up. I do understand that some of that increase relates to the number of properties that might have increased. I understand that. But the bottom line is that if people buy a property today versus buying it 13 years ago, they do not pay a lot less in stamp duty than they did before. Certainly, the rapidity of rates increases has been far greater than the reduction in stamp duty.⁶⁷⁹

OTHER CONTRIBUTORS

8.140 Ms Frances Davies, in her submission to the inquiry, advised the Committee that:

In 2012/13, the Government said Rates/Taxes would go up slowly and Stamp Duty would come down slowly. However, rates for strata units have escalated exponentially and stamp duty has hardly moved. For many “downsizers” they paid both high stamp duty and now much higher rates.⁶⁸⁰

8.141 Other contributors made statements in similar terms.⁶⁸¹

STAMP DUTY ALREADY PAID

8.142 A further argument put by contributors was that they had already paid significant sums in stamp duty over their lifetime, and expressed concern that they were now facing higher costs for rates and land tax.

MR PETER DAVIES

8.143 Mr Peter Davies, in his submission to the inquiry, advised the Committee that:

Waterfront Apartments (Waterfront) is a large apartment complex situated at the Kingston Foreshore, consisting of 104 apartments. It has a significant number of owner occupiers – more than 70% – many who are retired and on fixed incomes. Having purchased in the complex up to 11 years ago (when the complex was completed) the owners have paid significant amounts in Stamp Duty, as was required by the legislation. They are now being hit hard – the proverbial double-whammy – as the ACT

⁶⁷⁹ Mr Gary Petherbridge, *Proof Transcript of Evidence*, 11 July 2018, p.47.

⁶⁸⁰ Submission No. 55, Ms Frances Davies, p.3.

⁶⁸¹ See: Submission No. 5, Mr Tim Dunnet; Submission No. 46, Ms Catherine Wallace, p.1; Submission No. 3, Mr Gary Barnes, p.1; Submission No. 21, Mr Andrew Sutton; and Submission No. 22, Ms Terrie Lendon.

Government looks at reducing its reliance on Stamp Duty as a substantial source of funds for its budgets.⁶⁸²

MR R O'CONNELL

8.144 As noted elsewhere in this report, Mr R O'Connell, in his submission to the inquiry, advised the Committee that the effect of the change in methodology was to 'seriously disadvantage strata unit owners', many of whom were 'retired, have reduced and limited incomes and accordingly have downsized from larger properties in order to decrease their cost of living and continue to rely on their own resources', and had 'paid full stamp duty to do this'.⁶⁸³

MR PETER AND MRS CAROL DUNNET

8.145 Mr Peter and Mrs Carol Dunnet in their submission to the inquiry advised the Committee that:

We are the owners of two serviced apartments at Manuka and one town house at Phillip. There have been large increases since 2012 in rates and a huge 60% increase in land tax on these dwellings, particularly in the past year. As we have already paid stamp duty on these purchases it is grossly unfair to expect us to incur such big increases in these taxes.⁶⁸⁴

OTHER CONTRIBUTORS

8.146 Other contributors made similar comment about stamp duty.

8.147 Mr Alexander Popov, in his submission to the inquiry, advised the Committee that the 'ACT Taxation reform reduces the stamp duty in the ACT', but that 'such reduction is likely to be consumed by the rapidly increasing residential property prices in the ACT'.⁶⁸⁵

8.148 Ms Penny Gibson, in her submission to the inquiry, as noted elsewhere in this report, advised the Committee that people 'who have bought apartments in the few years before these enormous increases have been caught both ways' because they had 'paid full stamp duty before any reductions and now are paying high land taxes as well'.⁶⁸⁶

⁶⁸² Submission No. 62, Mr Peter Davies, p.1.

⁶⁸³ Submission No. 59, R O'Connell.

⁶⁸⁴ Submission No. 6, Mr Peter and Mrs Carol Dunnet.

⁶⁸⁵ Submission No.2, Mr Alexander Popov, p.2.

⁶⁸⁶ Submission No. 1, Ms Penny Gibson.

8.149 Mr Gary Petherbridge, in his submission to the inquiry, as noted elsewhere in this report, advised the Committee that ‘many older citizens may have made their last housing choice in ‘downsizing’ and had paid ‘the Higher Stamp Duty’, but were now facing ‘very high Rates as well’.⁶⁸⁷

COMMITTEE COMMENT

8.150 As in previous chapters, contributors to the inquiry were consistent in their views on degree to which the ACT government could be considered to have a ‘mandate’ for its 2017 changes to the methodology for rates and land tax for strata residences.

8.151 In general, these contributors took the view that:

- the ACT government had not provided a clear account of the changes-to-come during the 2016 ACT election campaign;
- the ACT government’s rationale for the 2017 changes to the methodology was not reasonable or logically consistent;
- the 2017 changes were not consistent with the findings of the Quinlan review, contrary to characterisations by the ACT government;
- persons liable for rates and land tax were not adequately informed by government prior to the 2017 changes, as to their implications;
- the quality of responses queries to government regarding the 2017 changes after they was introduced was poor, and that this aspect of the policy was poorly managed;
- services provided by government were not of an amount or quality that would make increased rates and land tax appear reasonable, that is: that there were perceptions of a lack of value for money;
- reductions in stamp duty were not sufficient to offset increases in rates and land tax; and that
- the proposed trade-off between higher rates and land tax and lower stamp duty was nullified because: people had paid higher rates of stamp duty in order to acquire their properties; and because ‘bracket-creep’ had resulted in higher stamp duty revenue to the Territory.

8.152 Different views were expressed as to whether a future methodology to determine rates and land tax should be based on unimproved (AUV) or improved value for a property. On balance, the majority of contributors noted that the Quinlan review had affirmed

⁶⁸⁷ Submission No. 53, Mr Gary Petherbridge, p.1.

unimproved value as the gold-standard for determining rates and land tax, and asked that the ACT system cleave to this principle.

8.153 Some contributors argued that there was a disparity between the proportion of value imputed to land for each unit title and that for free-standing dwellings, particularly in relation to apartments, and that this should be addressed in the design of a future methodology.

8.154 The Committee considers that this is an issue which should be addressed.

8.155 In light of this, the Committee makes the following recommendation.

Recommendation 4

8.156 The Committee recommends that the ACT government, in a future review of the ACT methodology for determining rates and land tax, address and respond to perceived disparities between land values attributed to unit title and free-standing dwellings and used as the basis for the valuation based charge component of rates and land tax.

9 PROPOSALS FOR RESOLUTION

INTRODUCTION

- 9.1 Contributors to the inquiry made proposals for ways to resolve what they saw as problems with current arrangements for rates and land tax.
- 9.2 This chapter considers:
- requests by contributors for the restoration of access to the progressive scale for rates and land tax for unit titled properties; and
 - alternative approaches to determining rates and land tax proposed by contributors.
- 9.3 These are considered below.

REQUEST FOR ACCESS TO THE PROGRESSIVE SCALE

- 9.4 Contributors to the inquiry made requests for access to the progressive scale for rates and land tax be restored for owners of unit title properties.
- 9.5 Mr Frederick Rubly, in his submission to the inquiry, asked the Legislative Assembly:
- to prevail upon the Government to return to the 2016/2017 methodology used for determining Rates and Land Tax that applied for strata residences, whereby every individual residential property was entitled to receive the full entitlement to the sliding scale of Rate and Land Tax calculations in determining their individual charges.⁶⁸⁸
- 9.6 Similar concerns and perceptions were offered in other contributions,⁶⁸⁹ and for some contributions this took the form of a request that the change in methodology be reversed.⁶⁹⁰

⁶⁸⁸ Submission No. 30, Mr Frederick Rubly.

⁶⁸⁹ See: Submission No. 5, Mr Tim Dunnet; Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, pp.29-30; Mr Phillip Baron, *Transcript of Evidence*, 13 June 2018, p.7;

⁶⁹⁰ See: Submission No. 7, Mr Rod Manns, pp.4-5; Submission No. 11, Mr Phillip Baron, p.2.

ALTERNATIVE APPROACHES

- 9.7 Some contributors to the inquiry proposed alternative approaches to determining rates and land tax for strata residences.

MR JACK EVANS

- 9.8 In his submission to the inquiry, Mr Jack Evans advised the Committee that:

If the government's objective is to better align rates and land tax with the improved values of homes and strata units then, surely, the logical and transparent approach would be to terminate the use of AUV [Average Unimproved Value] to calculate the VBC [Valuation Based Charge] component of rates and land tax, instead replacing it with AIV [Average Improved Value] utilising the pre 2017 methodology.⁶⁹¹

- 9.9 The submission advised the Committee that there was:

logic in transitioning to AIV as such a policy would reflect an element of the prime Quinlan Review recommendation of reducing the reliance on Stamp Duty, a tax based on the improved value of properties. Through the adoption of such a policy the basis on which the variable element of rates and land tax would be broadened to more accurately reflect the actual value of residential properties whilst avoiding the shortcoming of stamp duty which only generates tax revenue when a property is sold.⁶⁹²

- 9.10 Later in the submission, Mr Evans put the view that:

If the government is determined that equity is best measured based on a property's improved value then it must move to replace the AUV with the AIV of each property whilst abandoning the grossly flawed, utterly unfair methodology introduced in the 2017/18 budget.⁶⁹³

- 9.11 Regarding this proposal, the submission stated that:

Such a charge would create the opportunity to respond to the Quinlan Review recommendation to recognise past payments of stamp duty by introducing a rebate on rates for owners who purchased before a specified date (1 July 2015 perhaps). Such a

⁶⁹¹ Submission No. 97, Mr Jack Evans, p.3.

⁶⁹² Submission No. 97, Mr Jack Evans, p.3.

⁶⁹³ Submission No. 97, Mr Jack Evans, p.8.

scheme could be set at, say, a 10% rebate for 2018/19 reducing by 0.5% per year but lapsing when the property was sold.⁶⁹⁴

9.12 Further elements of Mr Evans' proposal were discussed in greater detail in hearings of 4 July 2018.⁶⁹⁵

MR KERRY N ATKINS

9.13 In his submission to the inquiry, Mr Kerry N Atkins advised the Committee regarding an alternative proposal for determining rates and land tax.

9.14 Under this proposal, single dwellings would 'pay rates based on the unimproved value of the land ... irrespective of the zoning if not given a dispensation'.⁶⁹⁶

9.15 Other elements of the proposal were that:

- strata complexes would 'pay rates based on the unimproved land value plus 5% for each zoned floor space ratio for the property';
- rate scales would be 'the same for single and strata' properties;
- for strata properties, the equivalent unimproved value would be 'new ulv multiplied by the unit built area (excluding balcony area), divided by the total occupied area (excluding balcony area) = unit equivalent ulv'; and
- the 'fixed charge', fire and emergency services' and 'safer families levy' would be 'the same for both single and multiple occupancies'.⁶⁹⁷

9.16 As a result of this, the submission advised:

- 'a 1 bedroom unit in a high density complex may be on the lowest rate scale while a penthouse in the same complex will probably be on the highest rate scale'; and
- 'the ACT Government earns more revenue which will increase exponentially as the proportion of strata increases', but 'all residents are treated equitably whether single occupancy or strata, there are no anomalies and it is simple'.⁶⁹⁸

⁶⁹⁴ Submission No. 97, Mr Jack Evans, p.8.

⁶⁹⁵ Mr Jack Evans, *Proof Transcript of Evidence*, 4 July 2018, pp.42-44.

⁶⁹⁶ Submission No. 72, Mr Kerry N Atkins.

⁶⁹⁷ Submission No. 72, Mr Kerry N Atkins.

⁶⁹⁸ Submission No. 72, Mr Kerry N Atkins.

- 9.17 'The only possible objection', the submission advised, 'would be for a strata resident in a high rise on, say, the 2nd floor complaining about paying the same rates as an identical unit on the 20th floor(with a higher market value)'.⁶⁹⁹
- 9.18 The 'answer' to this objection, the submission advised, 'is that rates are charged on [unimproved value] and a unit's equivalent footprint on it and not on any improved value'. The result, it suggested, would be 'the same for neighbours in single on the same sized land, one in a mansion and the other in a modest dwelling', as they would 'both have the same rate cost'.⁷⁰⁰
- 9.19 Further elements of Mr Atkins' proposal were discussed when he appeared before the Committee in hearings of 4 July 2018.⁷⁰¹

MR MIKE BUCKLEY

- 9.20 In his submission to the inquiry, Mr Mike Buckley advised the Committee that in the 'absence of sensitivity analysis supporting the development of the measure' it was 'very difficult to see how the equity concerns – to the extent that there are any – can be addressed'.⁷⁰²
- 9.21 However, the submission advised, the 'structural problem with the tax can be readily addressed':
- It is possible to overcome the problem of taxing unit owners on the basis of an asset they don't own by separately rating the Owners Corporation. This approach would mean that the Owners Corporation would have to make a payment to the Revenue Office and to raise the funds for the payment through the levies it imposes on owners.⁷⁰³
- 9.22 The submission advised that there were 'a couple of practical problems' for this option:
- First, an Owners Corporations might not have the funds to pay the obligation until a new administrative fund budget is approved. This is only a timing issue which would mean a one-year lag in the receipt of the higher tax obligation. More significantly, the Owners Corporation would be responsible where owners don't meet their levy

⁶⁹⁹ Submission No. 72, Mr Kerry N Atkins.

⁷⁰⁰ Submission No. 72, Mr Kerry N Atkins.

⁷⁰¹ Mr Kerry Atkins, *Proof Transcript of Evidence*, 4 July 2018, pp.34-39.

⁷⁰² Submission No. 25, Mr Mike Buckley, p.6.

⁷⁰³ Submission No. 25, Mr Mike Buckley, p.6.

obligations. This could affect the solvency of an Owners Corporation which is not well managed.⁷⁰⁴

9.23 However, the submission advised:

While these problems would need to be addressed, raising a separate general rate on the Owners Corporation could provide an opportunity to better target the measure by excluding Owners Corporations with an AUV below a threshold level. Before you could set the threshold, sensitivity analysis would be needed to better understand the equity concerns in relation to multi-unit dwellings.⁷⁰⁵

MR DAVID KING

9.24 In his submission to the inquiry, Mr David King advised the Committee of other ‘alternatives to the current methods’:

The fixed charge could be increased and the rates scale made less progressive (which the ACT Government has also done, to some extent). A rebate could be given for low income earners. More radically, a flat rate scale could be applied to the unimproved value of all properties or a flat charge to all properties, with rebates for lower income earners.⁷⁰⁶

9.25 If this were put in place, the submission advised:

Compared to the current system, some people may be made worse off than they were by the ACT Government’s 2017-18 changes and some people better off. However, the system would be fairer – more akin to a rate increase than a rate distortion.⁷⁰⁷

MR TED QUINLAN

9.26 When he appeared before the Committee in hearings of 13 June 2018, Mr Ted Quinlan was asked whether he thought that the current methodology for determining rates and land tax for unit title properties, which placed most properties in the highest level of the progressive scale was unfair.⁷⁰⁸

⁷⁰⁴ Submission No. 25, Mr Mike Buckley, p.6.

⁷⁰⁵ Submission No. 25, Mr Mike Buckley, p.7.

⁷⁰⁶ Submission No. 63, Mr David King, p.3.

⁷⁰⁷ Submission No. 63, Mr David King, p.3.

⁷⁰⁸ *Transcript of Evidence*, 13 June 2018, p.23.

9.27 In responding, Mr Quinlan told the Committee:

Well, the way it is done now is not fair. It has an element of unfairness in it and there is a practical issue to be addressed. I personally still believe in unimproved value as the base for rating, although it is probably better to use a term like “site value” because pretty well every unit and land is serviced for roads, kerbing, sewage etcetera. So the site value of a block of land, I think, should be the base for rating. That can create an equity.⁷⁰⁹

9.28 When he was asked as to how the ACT government could improve upon the current system, Mr Quinlan told the Committee:

I think it is going to take a bit of work. We talk about rating systems and I think everybody likes to use in the same sentence “fairness” and “simplicity”. Unfortunately, those two things can be at odds with each other. So I am going to suggest we come down more on the side of fairness as opposed to simplicity.⁷¹⁰

9.29 He told the Committee that:

In the rates inquiry that I chaired, I met a number of young people from the ACT treasury, very bright young people, and I think there is a capacity at least at the middle level in treasury to work through all this stuff. And I would be very surprised and somewhat disappointed if some of this work has not already been done in treasury.⁷¹¹

9.30 Mr Quinlan told the Committee that:

However, I would be looking—off the top of my head and without assistance—first of all to check the principle and the effectiveness of fixed and variable divisions within the rate. That needs to be examined.⁷¹²

9.31 ‘Secondly’, he told the Committee:

it should not be beyond the wit of mankind to create a nexus between the site value—moving away from the dirt value to the site value—of a detached block and the site value of the apartment in which my wife and I live on the third floor. In fact, even though it is not touching the ground, you should be able to say, “You have that much space in Deakin,” where we live, “albeit not actually on the earth’s crust and it should be about the same in terms of value for rating purposes as a block of land.”⁷¹³

⁷⁰⁹ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.23.

⁷¹⁰ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.26.

⁷¹¹ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.26.

⁷¹² Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.26.

⁷¹³ Mr Ted Quinlan, *Transcript of Evidence*, 13 June 2018, p.26.

OTHER CONTRIBUTORS

9.32 Other contributors also made comment about alternative approaches to determining rates and land tax.

9.33 Mr Tim Dunnet, in his submission to the inquiry, advised the Committee that:

What [I] want is fairer way to work out taxes for units. I suggest that a system be developed that the taxes are worked on the value of the unit not the land component as it is a small share of a bigger parcel. Just as house and land rates and land tax is levied on the value of the land going up and down. There are systems like this in Canada.⁷¹⁴

9.34 Mr Rod Manns, when he appeared in hearings of 4 July 2018, told the Committee that he thought the 'old system was fair'. 'However', he told the Committee:

if the government has a revenue challenge that it needs to meet, and it is not getting enough in total from rates to meet that revenue challenge, it needs to have a proper look at the whole rating system and come up with a methodology that will raise the revenue needed but distribute it fairly across all properties. It should not just target unit owners for massive increases without any logic or justification.⁷¹⁵

9.35 He told the Committee that, as he had suggested in his submission:

because that is such a major thing, that it would be wise to have an independent inquiry or review, and not just have it done in the backroom of treasury and announced after the event.⁷¹⁶

9.36 Mr Manns went on to say that such an inquiry:

needs to be transparent. People need to be able to put in their views. If there were going to be a big change from, for example, marginal rates to fixed rates, people would need to see what the implications of that were. Something as major as that would have to be taken to an election, I would suggest, and the government would need a mandate for it.⁷¹⁷

⁷¹⁴ Submission No. 5, Mr Tim Dunnet.

⁷¹⁵ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, pp.32-33.

⁷¹⁶ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.33.

⁷¹⁷ Mr Rod Manns, *Proof Transcript of Evidence*, 4 July 2018, p.33.

COMMITTEE COMMENT

- 9.37 In their proposals for a resolution to present concerns regarding the ACT rates and land tax system, contributors to the inquiry were consistent in asking that full access to the progressive scales for rates and land tax be restored.
- 9.38 It is clear from the representations made to the Committee by these contributors that they regard full access to the progressive scale as a litmus-test of fairness in the rates and land tax system.
- 9.39 Such access would be achieved, in the view of the Committee, if the Committee's earlier recommendation — to do away with deriving individual unit entitlement from an aggregate value for each unit plan.
- 9.40 However, for the sake of clarity, the Committee makes the following recommendation.

Recommendation 5

- 9.41 The Committee recommends that the ACT government propose to the Legislative Assembly changes to the regime for rates and land taxes which, if passed, would grant full access to progressive scales for rates and land tax to the owners of unit title properties.**

10 COMMITTEE CONCLUSION

- 10.1 The Committee considers that this inquiry has been a valuable opportunity: both to hear from concerned persons, and to review the current system for rates and land tax in the ACT.
- 10.2 The present system has generated considerable anomalies in outcomes in dollar terms. The Committee considers that it is difficult not to be concerned at being advised of difficulties experienced in meeting increased rates and land tax, for both residents and investors.
- 10.3 Viewed in aggregate, the Committee considers as a result of amendments in 2017 particularly that the current system for rates and land tax presents too many anomalies.
- 10.4 In the Committee's view it is important that something so significant in the lives of ACT residents should be readily explicable and administered.
- 10.5 The Committee heard considerable evidence for the need for a revision of the rating system, however there was no real appetite, including from the Treasurer,⁷¹⁸ to depart from an assessment based on unimproved value. At this stage, the Committee also considers that unimproved value should be the basis on which rates are determined.
- 10.6 In light of this, the Committee makes the following recommendations.

Recommendation 6

- 10.7 The Committee recommends that the ACT government conduct a public review of the ACT system for rates and land tax, including and especially rates and land tax for unit title properties, to ensure fairness and consistency, and legislate accordingly.**

Vicki Dunne MLA
Chair

⁷¹⁸ Mr Andrew Barr MLA, *Transcript of Evidence*, 8 August 2018, p.66.

Appendix A TERMS OF OUT-OF-ORDER PETITIONS

The terms of first out-or-order petition, presented 15 February 2018,⁷¹⁹ were:

PETITION

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory

This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that: in 2017 /18, the Government unfairly restructured the methodology applied to determine Rates and Land Tax for strata residences generating an additional increase in each residence's rates of up to \$940 pa above the overall rate increase while the AUV portion of Land Taxes have increased by as much as 170%. Such action was taken by this Government:

1. without a mandate to make this change to the method of determining strata residences' Rates and Land Taxes
2. without recognition of the savings in garbage collection and roads, footpaths and nature strips infrastructure which the government enjoys because of the higher density and therefore more efficient use of such infrastructure generated by strata residents
3. without appreciation of the conflict this policy causes with the critical ACT Planning Strategies of creating "a more compact, efficient city by focusing urban intensification in town centres, around group centres and along major public transport routes" and to "provide more cost effective and sustainable living options"
4. without analysis of the negative impact on those wanting to become homeowners and those existing homeowners contemplating downsizing especially from houses to strata residences
5. and, without a full appreciation of the flow on upward pressure this policy will have on all residential rents in the ACT.

Your petitioners therefore request the Assembly to: require the Government to return to the methodology for determining Rates and Land Tax which applied for strata residences until 2016/17 whereby every individual residential property is entitled to receive the full entitlement to the sliding scale of Rate and Land Tax calculations in determining their individual charges.

⁷¹⁹ Legislative Assembly for the ACT, *Minutes of Proceedings*, 15 February 2018, p.673.

The terms of the second out-of-order petition, presented 15 February 2018,⁷²⁰ were:

We request the Assembly to require the Government to return to the methodology for determining Rates and Land Tax which applied for strata residences until 2016/17 whereby every individual residential property is entitled to receive the full entitlement to the sliding scale of Rate and Land Tax calculations in determining their individual charges.⁷²¹

⁷²⁰ Legislative Assembly for the ACT, *Minutes of Proceedings*, 15 February 2018, p.673.

⁷²¹ As noted elsewhere, the first petition, of 76 signatures, was considered out of order because the terms of the petition were not displayed on the pages on which signatures were applied. The second petition, of 5464 signatures, was considered out of order because: it was an electronic petition, but did not employ the Assembly's form for electronic petitions, and no original signatures were provided; and some signatures were from outside of the ACT. See Legislative Assembly for the ACT, 'Paper petitions', viewed 27 August 2018, available at: <https://epetitions.act.gov.au/PaperPetitions.aspx> and 'Welcome to the ACT Legislative Assembly e-Petitions website', viewed 27 August 2018, available at: <https://epetitions.act.gov.au/>

Appendix B Witnesses

Hearings of 13 June 2018

- Mr Phillip Baron
- Mr Peter Dunnet
- Mrs Carol Dunnet
- Mr Alexander Popov
- Mr Ted Quinlan

Hearings of 4 July 2018

- Mr Kerry Atkins
- Mr Jack Evans
- Mr Rod Manns

Hearings of 11 July 2018

- Mr Gary Petherbridge

Hearings of 8 August 2018

- Mr Andrew Barr, Chief Minister, Treasurer, Minister for Economic Development and Minister for Tourism and Major Events
- Ms Kathy Goth, Director, Economic and Financial Analysis, Economic and Financial Group, Chief Minister, Treasury and Economic Development Directorate
- Mr David Nicol, Under Treasurer, Chief Minister, Treasury and Economic Development Directorate
- Mr Kim Salisbury, Executive Director, Revenue Management, Chief Minister, Treasury and Economic Development Directorate
- A submitter who wished not to be named

Appendix C Submissions

- Submission No. 01 - Ms Penny Gibson
- Submission No. 02 - Mr Alex Popov and attachments
- Submission No. 03 - Mr Gary Barnes
- Submission No. 04 - Mr Michael Marsalek
- Submission No. 05 - Mr Tim Dunnet
- Submission No. 06 - Mr Peter and Mrs Carol Dunnet
- Submission No. 07 - Mr Rod Manns and attachments
- Submission No. 08 - Mr John Drum
- Submission No. 11 - Mr Phillip Baron
- Submission No. 12 - Mr Philip Robertson and attachments
- Submission No. 13 - Mr Dominic Alecci
- Submission No. 13A - Mr Dominic Alecci
- Submission No. 13B - Mr Dominic Alecci
- Submission No. 14 - Ms Rahmi Gusnetti
- Submission No. 15 - Mr Steve Tritton
- Submission No. 16 - Ms Jenny Smith
- Submission No. 17 - Mr Ed Highley
- Submission No. 18 - Mr Peter and Mrs Thelma Tokesi
- Submission No. 20 - Ms Jane Godtschalk
- Submission No. 21 - Mr Andrew Sutton
- Submission No. 22 - Ms Terrie Lendon
- Submission No. 23 - Mr Paul Harris
- Submission No. 24 - Mr Gary Jobson
- Submission No. 25 - Mr Mike Buckley
- Submission No. 25A - Mr Mike Buckley
- Submission No. 26 - Mr Neil Ferguson
- Submission No. 27 - Fay and Laurence Thwaites

- Submission No. 28 - Mr Justin Wunsch
- Submission No. 29 - Mr Mohan Mathews
- Submission No. 30 - Mr Frederick Rubly
- Submission No. 31 - Mr Joel Smith
- Submission No. 32 - Ms Robyn Rofe
- Submission No. 33 - Mr Ted Quinlan
- Submission No. 34 - Ms Pamela Nash
- Submission No. 36 - Mr Ray Peters
- Submission No. 37 - Mr Shannon Cuthbertson
- Submission No. 38 - Mrs TM Bewley
- Submission No. 39 - Mr Alec Mackie
- Submission No. 40 - Ms Maureen Nolan
- Submission No. 41 - Ms Shirley Cummings
- Submission No. 42 - Gil Miller
- Submission No. 43 - Ms Annie Gregg
- Submission No. 44 - Ms Donna Woodward
- Submission No. 45 - Ms Beverly Bayldon
- Submission No. 46 - Ms Catherine Wallace
- Submission No. 47 - Mr Ross Greenwood
- Submission No. 48 - Ms Susan Fowler
- Submission No. 48A - Ms Susan Fowler
- Submission No. 49 - Mr Denton Bocking
- Submission No. 50 - Diane and Andrew Overall
- Submission No. 51 - Albert & Johanna Owens
- Submission No. 52 - Ms Emma Jackman
- Submission No. 53 - Mr Gary Petherbridge and attachments
- Submission No. 54 - Relja Cveticanin
- Submission No. 55 - Ms Frances Davies
- Submission No. 56 - Ms Melita Dahl
- Submission No. 57 - Roger Neil Smith and Diana Ruth Smith
- Submission No. 58 - Mr Graeme Norris

- Submission No. 59 - R O'Connell
- Submission No. 60 - Mr Arthur Lagos
- Submission No. 61 - Mr Michael Parsons
- Submission No. 62 - Mr Peter Davies
- Submission No. 63 - Mr David King
- Submission No. 64 - Mr Simon Hearder
- Submission No. 65 - Mr Jeremy Redgrove
- Submission No. 66 - Ms Schola Nyambura
- Submission No. 68 - Mr David MacDougall
- Submission No. 69 - Mr Simon Greig
- Submission No. 70 - Mr Martin Hess
- Submission No. 71 - Makarand Kale
- Submission No. 72 - Mr Kerry N Atkins
- Submission No. 72A – Mr Kerry N Atkins
- Submission No. 73 - Santanu Chaudhary
- Submission No. 74 - Mr Julian Rzechowicz
- Submission No. 75 - Negin Moghaddam
- Submission No. 76 - Wanting Xu
- Submission No. 77 - Mr Phil Malcolm
- Submission No. 78 - Mr Peter Fricker
- Submission No. 79 - Mr John Fletcher
- Submission No. 80 - Mr Peter Chua-Lao
- Submission No. 81 - Ms Vicki M Black
- Submission No. 82 - Ms Hope Steele
- Submission No. 84 - Ms Anita Nemarich
- Submission No. 85 - Mr John Mitchell
- Submission No. 86 - Mr James Yan
- Submission No. 87 - Mr Scott Burkhart
- Submission No. 88 - Mr Michael Courtenay
- Submission No. 89 - Thet Naing

- Submission No. 90 - Mr Philip Major
- Submission No. 91 - Mr Craig Hazelton
- Submission No. 92 - Mr Adrian Fitzpatrick
- Submission No. 93 - Mr Alexander Elliott
- Submission No. 94 - Ms Michelle Dawson
- Submission No. 95 - Ms Lenette Hammett
- Submission No. 96 – [Name withheld]
- Submission No. 96A – [Name withheld]
- Submission No. 96B – [Name withheld]
- Submission No. 97 - Mr Jack Evans
- Submission No. 98 – Ms Robin Trinca

Appendix D Resolution creating Privileges Committee

Resolution creating Select Committee on Privileges 2018

On 12 April 2018 the Legislative Assembly for the ACT resolved:

That:

(1) this Assembly notes:

(a) the letter distributed to Canberra residents in the names of Miss C. Burch and Ms Lee titled Inquiry into the methodology for determining rates and land tax for apartments;

(b) the letter calls upon residents of the Australian Capital Territory to make submissions to an inquiry of an Assembly committee via the haveyoursay.net.au website;

(c) the 'haveyoursay' website is not operated by the committee secretariat, but by the Liberal Party of Australia ACT Division, with a registrant contact name of Alistair Coe;

(d) the letter and the 'haveyoursay' website may combine to create a false impression that they are proceedings of the Assembly or its committees;

(e) as political parties are not subject to the Privacy Act 1988 (section 6C), there is no law governing how any information collected by the website will be used, or that all submissions made were accurately forwarded to the committee;

(f) there is a possibility that submissions to the 'haveyoursay' website were not all submitted to the Standing Committee on Public Accounts, and hence the course of the inquiry has been corrupted; and

(g) a number of other non-Legislative Assembly websites have been established to generate submissions to Assembly committee inquiries, including Unions ACT for the insecure work inquiry and Australian Christian Lobby for the Select Committee on End of Life Choices in the ACT;

(2) pursuant to standing order 277, a Select Committee on Privileges be established to examine whether there has been a breach of the standing orders by contempt of the committee by Ms Lee, Miss C. Burch or Mr Coe, in relation to matters noted and any other relevant matters, including whether the conduct constitutes:

(a) interference with the Assembly;

(b) obstruction of orders;

(c) interference with witnesses;

(d) refusal or failure to produce documents, or to allow the inspection of documents;
or

(e) destruction, damage, forging or falsification of any documents;

(3) the Committee should also examine whether the third-party websites raised in (1)(g) have raised any issues of breaches of privilege or standing orders, and whether guidelines should be developed for promotion of, and generation of, submissions to committee inquiries;

(4) the Committee shall report back to the Assembly on the first sitting day of July 2018;

(5) notes that the Standing Committee on Public Accounts can continue its business relating to the rates inquiry by meeting and holding public hearings on this matter, but should not report to the Assembly prior to the Select Committee on Privileges reporting to the Assembly; and

(6) the membership of the Committee is to be Ms Cheyne (Government), Mr Rattenbury (Crossbench), Mr Wall (Opposition).”—

be agreed to.⁷²²

⁷²² Legislative Assembly for the ACT, *Minutes of Proceedings*, 12 April 2018, pp.795-796.