Legislative Assembly for the Australian Capital Territory
Standing Committee on Public Accounts and Administration

Submission Cover Sheet

Inquiry into Home Buyer Concession Scheme Administration

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Submitter: Ed Cocks MLA

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Ed Cocks MLA

Liberal Member for Murrumbidgee

Standing Committee on Public Accounts and Administration
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

By Email: ***LACommitteePAA@parliament.act.gov.au***

Dear Committee Members,

Inquiry into Home Buyer Concession Scheme Administration

Thank you for agreeing to inquire into the administration of ACT Home Buyer Concessions. This is an important inquiry that goes to the issue of how the government should interact with residents, especially in circumstances where there is a significant power imbalance.

I am writing this submission as an individual MLA who has been advocating on behalf of people impacted by this scheme for some time. It does not represent a party position and is intended to draw the Committee's attention to information and some key issues surrounding the scheme, and approaches to revenue management more broadly.

The administration of the Home-Buyer Concession Scheme, including the retrospective reassessment and subsequent debt collection processes of the Government is clearly different from the former federal program generally called Robodebt, and the significant issues deserve to be considered and dealt with entirely distinctly from that process. At the same time, there are overlapping issues that deserve the committee's consideration, including serious financial and psychological harm to people who have done their best to do the right thing.

It is also notable that some of the developments in the approach to retrospective reassessments and debt collection have been implemented in the shadow of that federal program, and consideration should be given as to whether the lessons of the Royal Commission have been learned and fully applied in the ACT.

Canberrans deserve to be treated with fairness, respect, and good faith by their government. When people buy a home, particularly their first home, they are navigating what is often the biggest financial decision of their lives, with complex legal, information and regulatory burdens. They must usually rely on professional expert support and depend on clear advice and information from professionals and the Government.

People should be able to trust that the rules and requirements of the Government schemes intended to help them are clear, that someone is checking at the outset to make sure the rules are applied correctly, and that the government will approach them as honest citizens acting in good faith.

Sadly, the experience of many home buyers reassessed years after the fact paints a very different picture.

At an increasing rate, it appears the ACT Revenue Office has pursued people for retrospective debts which the people concerned were entirely unaware they may owe. The Office often then applies high rates of both compounding penalty interest and penalty taxes, and sends residents letters that read like threats, including in relation to both further application of penalty interest, and in relation to debt collection activities; both of which can occur while a matter is being appealed.

Rather than acknowledging life circumstances or honest mistakes, many of my constituents feel the Office's approach to retrospective recovery seems to treat them as if they were a criminal out to rort the system. This may indicate a culture of suspicion and punishment which I expect would be at odds with what most Canberrans expect from good government, and it raises serious questions of fairness, proportionality, and good faith.

The number of people being reassessed is skyrocketing, and many of those individuals who have been targeted feel hounded and persecuted. In an effort to avoid threatened enforcement measures, people have been subjected to severe financial hardship and had their relationships and mental health impacted.

While the Government has consistently argued that the revenue commissioner's actions and approach to administering the scheme are legal, and many aspects are consistent with other jurisdictions, many of the most important questions about the administration of the scheme require consideration of whether the process is, even if legal, ethically and morally right and reasonable. For example, is it reasonable and fair to:

- treat all concession recipients as if they were acting dishonestly, rather than beginning from a position of good faith?
- to reverse the burden of proof when reassessing concession eligibility, particularly with respect to events that occurred more than the 5 years the government is routinely able to review matters?
- undertake or threaten debt collection while a matter is under review?
- apply both penalties and penalty interest where an individual has acted in good faith and in particular during the period an individual believed they were eligible?
- apply penalty interest during the period a matter is under review by the ACTRO?

Similarly, the committee may wish to consider whether the powers and constraints of the Government and the ACT Revenue Commissioner are appropriately geared to ensure fair outcomes for individuals who act in good faith.

As, with submissions closing today, no Government Submission has yet been published, I have attached a brief document setting out some of the background and issues the committee may wish to consider.

I also note that I have been contacted by a number of individuals who are not comfortable making a submission because their individual circumstances remain under consideration, and they are concerned about potential repercussions and retribution if they were to be identified (either by name or by their circumstances). If it is helpful to the Committee, I would be willing to discuss ways to explore some of those individuals' stories in-camera to protect their privacy.

Yours sincerely

[redacted]

Ed Cocks MLA
Member for Murrumbidgee
29 August 2025

Attachment A: Background to Home Buyer Concession Scheme (HBCS)

Concessions which reduce or remove stamp duty for particular home-buyers are a long-standing feature of conveyance duty systems in Australia and the ACT. In the ACT, those concessions predate self-government, and the first references to the "Home Buyer Concession Scheme" date back to at least 2000 during the Carnell Government. Over time, successive governments have amended particular provisions, and particularly in relation to eligibility.

The Government has indicated a dual policy intent for the current iteration of the Home Buyer Concession Scheme (HBCS):

- to lower up-front transaction costs so that eligible households can enter home ownership sooner; and
- a step toward the Territory's tax reform objective of shifting the revenue base away from transaction taxes by removing conveyance (stamp) duty.

How the concession operates in practice

The scheme is administered by the ACT Revenue Office (ACTRO). Eligibility is claimed at settlement by the purchaser (usually via their conveyancer) under the Territory's self-assessment model. In practice, a concession code is entered via the online Buyer Verification Declaration; supporting documentation must be retained for five years in case of review. ACTRO publishes a consolidated list of concession/exemption codes and the documentation to be kept.

This administrative approach was introduced in 2017, when the ACT transitioned to what was called a "Barrier Free Model". Prior to this change, applicants would submit concessions for assessment and ACTRO would review applications and actively assess eligibility.

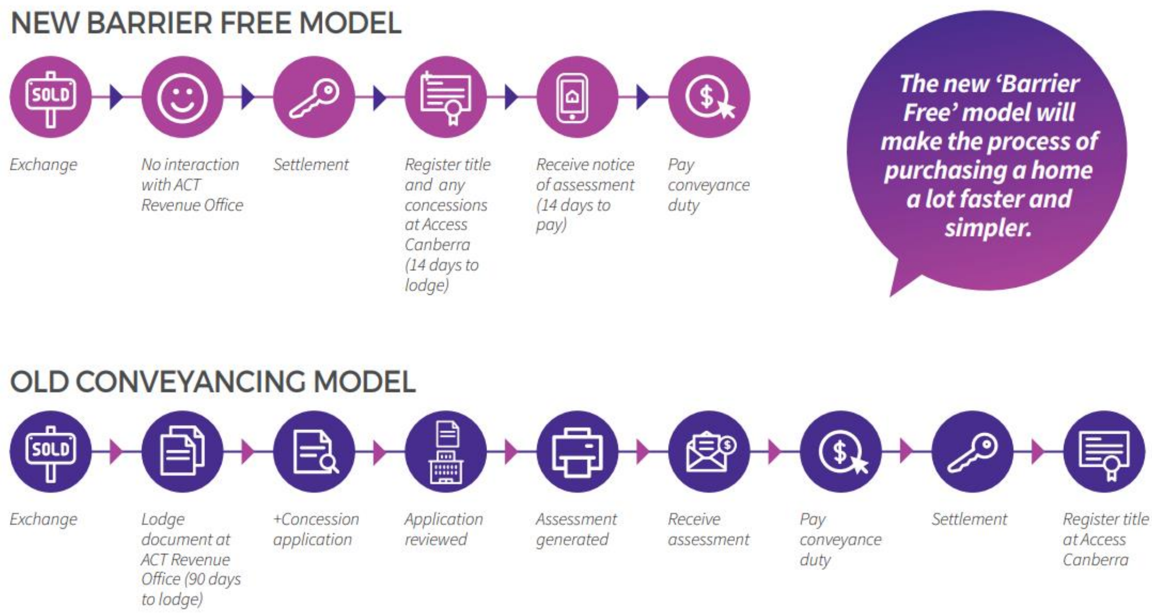

Figure 1 - extract from 2017 conveyance duty fact sheet - https://www.revenue.act.gov.au/__data/assets/pdf_file/0009/1110420/Changes-to-conveyance-duty-Factsheet.pdf

Specifically, the 2021 Land Titles Practice Manual indicates that: *"Under the Barrier Free model, duty only becomes payable 14 days after the title to a property is registered at ACT Land Titles Access Canberra (at the end of the transaction), rather than when contracts are exchanged (at the beginning of the transaction). The model also allows parties to self assess the duty that they have to* *pay"* Importantly, fact sheets from the time indicated that the ACT Revenue office would still check to verify eligibility.

The Buyer Verification Declaration is an interactive online form which cannot be viewed in full without being completed.

ACTRO also provides an HBCS questionnaire (linked for example from: https://www.revenue.act.gov.au/home-buyer-assistance/home-buyer-concession-scheme/transactions-entered-into-on-or-before-30-june-2019) to support applicants to self-assess their eligibility, with a button marked "Find out if you're eligible".

Pages which link to this form now contain a statement that:

"All concessions and exemption applications at the ACT Revenue Office are self-assessed. You are obligated to ensure that all the eligibility criteria have been met (or will be met) before applying for any concession or exemption code in the Buyer Verification Declaration.

You should undertake your own inquiries into the eligibility requirements. This may include obtaining information from this website, legislation, or independent professional advice."

This is a recent addition, and archived versions of the website from prior to 2025 do not contain this statement.

Retrospective Reassessments

The ACT Government has implemented a range of measures to undertake retrospective reassessments of individuals' stamp duty obligations in order to ensure appropriate duty has been paid. The power to undertake retrospective reassessments is contained in the Tax Administration Act.

Section 9(3)(a)(i)–(ii) of this Act prevents the Commissioner from reassessing a tax liability "*more than 5 years after the initial assessment unless:*

- *the purpose of the reassessment is to give effect to a decision on an objection or appeal as to the initial assessment; or*
- *at the time the initial assessment or reassessment was made, all the facts and circumstances affecting the liability under the relevant tax law of the person in relation to whom the assessment or reassessment was made were not fully and truly disclosed to the commissioner…*

It currently seems most reassessments older than 5 years may be based on the second of these provisions. However, the capacity to either disclose all facts and circumstances may be difficult in the context of a self declaration that is restricted to identifying the relevant code under which an individual believes they are eligible.

Retrospective reassessments have long been a feature of the self-assessment system, and other taxation measures. However, retrospective reassessments have dramatically increased since 2021. QoN 34 from this year's PAA Inquiry into Annual and Financial Reports shows that in each year from 2010-11 to 2020-21, the total number of reassessments was between 3 and 30. A response to QoN 221 from the 2024 Budget Estimates process indicates that number increased to 81 in 2022-23 and reached 236 (more than 1500% above the pre-2022-23 average) in 2023-24.

Use of "Business Intelligence" tools

The significant increase in retrospective reassessments may have coincided with a corresponding increase in the use of business intelligence tools by the ACTRO. In response to a QON No. 22 of the PAA inquiry into Annual and Financial Reports 2023-24, the Minister for Finance stated that:

The ACT Revenue Office uses a range of software tools. This includes the Microsoft Business Intelligence Software suite, R, Power BI and GraphDB.

Documents contained in CMTEDDFOI 2025-002 indicate that retrospective reassessment tasks may now be automatically either identified or generated by business intelligence systems. The Committee may wish to examine whether cases flagged or generated by business-intelligence systems receive documented human review and formal approval before a Notice of Reassessment is issued.

The Minister also noted that:

For purposes of administering the ACT tax laws, the ACT Revenue Office has access to a range of data, including but not limited to the Australian Taxation Office, the Australian Business Register, ACT Rental Bonds, ACT rego and utilities.

A private briefing from the ACT Revenue Commissioner suggested that these data external sources are central to ACTRO business intelligence in respect of retrospective reassessments.

HBCS Self Assessments compared with Tax return declarations:

The Government has previously indicated that the self assessment approach is consistent with the approach of the Australian Tax Office with regard to Tax Returns. While both systems rely on taxpayer declarations, there are important differences:

- **Timing and risk**: HBCS relief is applied immediately at settlement on the strength of a declaration about current facts and some future conditions (e.g., 12-month occupancy). By contrast, ATO self-assessment typically occurs after year-end on past facts, with a defined "period of review" for amendments (generally two years for many individuals, longer in some cases).
- **Documentation and process**: HBCS is lodged by entering a concession code with limited requirements for evidence (evidence is retained, not usually filed), whereas ATO returns include comprehensive data and third-party prefill (PAYG, interest, dividends).

Useful References

- ACT Revenue Office — Home buyer concession scheme (including First Home Owner Grant). Overview, eligibility guidance and links to forms. https://www.revenue.act.gov.au/home-buyer-assistance/home-buyer-concession-scheme
- ACT Revenue Office — Buyer Verification Declaration (BVD) landing page (online claim pathway and late-claim procedures). https://actlis.act.gov.au/verificationFormLanding/buyer
- ACT Revenue Office — Codes and supporting documents (self-assessment codes, record-keeping requirements). https://www.revenue.act.gov.au/self-assessment-tools-and-forms/codes-and-supporting-documents

- ACT Revenue Office — Home buyer concession scheme questionnaire (interactive eligibility guide). https://www.revenue.act.gov.au/self-assessment-tools-and-forms/questionnaires/home-buyer-concession-scheme
- ACT Revenue Office — Changes for 2017 (Conveyance duty factsheet: Barrier Free model / changes to conveyance duty). (Fact sheet PDF) https://www.revenue.act.gov.au/__data/assets/pdf_file/0009/1110420/Changes-to-conveyance-duty-Factsheet.pdf
- ACT Revenue Office — "Changes for 2023–24" (administrative updates and alignment notes). https://www.revenue.act.gov.au/changes-for-2023-24
- Taxation Administration (Amounts Payable—Home Buyer Concession Scheme) Determination 2022 (DI2022-157). Disallowable instrument (alignment to owner-occupier rates). PDF. https://www.legislation.act.gov.au/DownloadFile/di/2022-157/20220701-79176/PDF/2022-157.PDF
- Disallowable Instrument — Taxation Administration (Amounts Payable—Home Buyer Concession Scheme) Determination 2025 (DI2025-146) (2025–26 thresholds/caps). https://www.legislation.act.gov.au/di/2025-146/
- Taxation Administration Act 1999 (ACT), s 9(3)(a)(i)–(ii) (five-year reassessment bar and exceptions). Consolidated Act (official PDF) and AustLII display. AustLII (s 9): https://classic.austlii.edu.au/au/legis/act/consol_act/taa1999269/s9.html
- ACT Legislation (consolidated Act PDF): https://www.legislation.act.gov.au/DownloadFile/a/1999-4/20231127-82498/PDF/1999-4.PDF
- ACT Treasury — ACT Tax Expenditure Statement 2022–23 (revenue forgone and expenditure notes, including conveyance duty concessions). PDF. https://www.treasury.act.gov.au/__data/assets/pdf_file/0006/2467869/ACT-Tax-Expenditure-Statement-2022-23.pdf
- Legislative Assembly — Public Accounts and Administration Committee (PAA) QON 034 — Reassessed conveyance duty concessions: reassessment and objection data (CMTEDD response). (PDF QON response) https://www.parliament.act.gov.au/__data/assets/pdf_file/0007/2822677/PAA-QON-034-Answer-CMTEDD-Reassessed-Conveyance-Duty-Concessions-Reassessment-and-Objection-Data-Cocks.PDF
- Legislative Assembly — Public Accounts and Administration Committee (PAA) QON 027 — Reassessed conveyance duty concessions: increase in reassessments (CMTEDD response). (PDF QON response) https://www.parliament.act.gov.au/__data/assets/pdf_file/0009/2822652/PAA-QON-027-Answer-CMTEDD-Reassessed-Conveyance-Duty-Concessions-Increase-in-Reassessments-Decisions-Cocks.pdf
- Chief Minister, Treasury and Economic Development Directorate (CMTEDD) — FOI release: 2024-288 (statistical definitions and HBCS Notices of Reassessment extract). PDF. https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0005/2598170/2024-288.pdf
- Chief Minister, Treasury and Economic Development Directorate (CMTEDD) — FOI release: 2025-002 (standard operating documents and requested HBCS assessment/objection counts). PDF. https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0008/2818466/2025-002.pdf

- CMTEDD / ACTRO Annual Reports (operational reporting, administrative commentary and program notes). (Landing page for annual reports.) https://www.act.gov.au/open/chief-minister-treasury-and-economic-development-directorate-annual-reports
- Australian Taxation Office — "Self-assessment and the taxpayer" (overview of ATO self-assessment model). https://www.ato.gov.au/individuals-and-families/your-tax-return/self-assessment-and-the-taxpayer
- Australian Taxation Office — "Time limits on tax return amendments (individuals)" (periods of review). https://www.ato.gov.au/individuals-and-families/your-tax-return/amend-your-tax-return/time-limits-on-amendments
- Australian Taxation Office — "Request an amendment to a business or super tax return (time limits / period of review)." https://www.ato.gov.au/businesses-and-organisations/preparing-lodging-and-paying/fix-a-mistake-or-amend-your-tax-return/request-an-amendment-to-a-business-or-super-tax-return
- ACT Revenue Office — Tax reform (20-year tax reform program and policy context for duty reduction). https://www.revenue.act.gov.au/tax-reform