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Member for Kurrajong

Mrs Giulia Jones MLA

Chair

Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)

ACT Legislative Assembly

CANBERRA ACT 2601

Dear Mrs Jones

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) in *Scrutiny Report 31* of 28 May 2019, sought clarification of the intended meaning of paragraph 5(a)(2) of the *Land Tax (Affordable Community Housing) Determination 2019 (No 1)* ('DI2019-32').

The Committee notes that paragraph 5(a)(2) seems to be merely a statement that the Commissioner [for ACT Revenue] will comply with the law, but that the Committee may be missing something.

I thank the Committee for its consideration of DI2019-32 and provide the following comments in response, as requested.

The Land Tax Affordable Community Housing exemption came into effect on 28 March 2019. It provides owners with relief from having to pay land tax if they rent their parcel of land through a registered community housing provider to tenants on low to moderate incomes.

The exemption is available as a pilot for a limited period and is capped at a maximum number of properties. It is administered by the ACT Revenue Office (ACTRO) having responsibility for land tax legislation and a direct relationship with property owners, and by the Environment Planning and Sustainable Development Directorate (EPSDD) having oversight of land and housing policy in the ACT.

DI2019-32 was made under section 13A (5) of the *Land Tax Act 2004* ('the authorising law'). Section 5 of DI2019-32 sets out the maximum number of parcels of land that are entitled to the exemption, that being 100 parcels. Section 5(a)(2) states:

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For the purposes of this section, the Commissioner for ACT Revenue will, after consulting with the Director-General of the Environment Planning and Sustainable Development Directorate, allocate an exemption to an eligible parcel of land provided the total number of parcels would not exceed the number in section 5(a)(1).

The subject paragraph makes broad provision for the actions to be carried out in order to give effect to the determination in section 5(a)(1) that only 100 parcels of land would benefit from this exemption. This section ensures that land tax exemptions granted to owners by ACTRO are properly allocated consistent with ACT Government housing policies, and that ultimately, the numbers of properties that benefit do not exceed that allowed for through the pilot. It also facilitates consultation between parties during this pilot period to provide flexibility to deal with matters on a case-by-case basis as and when they arise, as this exemption is trialled.

Section 52 of the *Legislation Act 2001* applies if an Act or statutory instrument (the authorising law) authorises or requires provision to be made about a matter by statutory instrument. It states that a statutory instrument made under the authorising law may make provision about the matter by authorising or requiring a stated entity to make provision about the matter, or any aspect of the matter, whether or not from time to time. 'Provision' for a matter, includes determining or regulating the matter, applying the instrument to the matter, being satisfied or forming an opinion about anything relating to the matter, or doing anything else in relation to the matter.

Section 5(a)(2) of DI2019-32 is therefore more than a statement that the Commissioner will comply with the law. It facilitates the allocation of the exemption having regard and consideration of ACT housing policies and within the limits as prescribed by Government and the law.

I trust that this response addresses the Committee's concerns.

Yours sincerely

Andrew Barr MLA
Treasurer