

ACT Treasury  
Review of the Lease Variation Charge

via email: [LVCReview@act.gov.au](mailto:LVCReview@act.gov.au).

Dear Secretariat

### **Submission - Review of the Lease Variation Charge**

Thank you for the opportunity to provide a submission to the Review of the Lease Variation Charge.

We note that the scope of the Review is based on the motion passed by the Legislative Assembly on 26 October 2017. The Review will also consider other matters related to those addressed by the Assembly motion.

Broadly, the Review will consider:

- LVC and remissions as they apply to residential and mixed use developments;
- Simplifying LVC charges and increasing consistency across lease types;
- The combined impact of LVC and zoning or planning rules on the financial viability of redevelopment, particularly in relation to the codified charges updated in 2017;
- Aligning LVC with housing affordability, housing supply and planning objectives;
- Simplifying residential schedules and extending application of codified charges.

The Review will consider whether further improvements can be made to the LVC framework to ensure it continues to assist the Canberra community to share in the land value uplift, while aligning with the Government's urban renewal and housing supply priorities. Further, whether any potential reforms meet the Government's revenue-neutral intention.

We note that the consultation questions for the Review include a focus on housing affordability and that the ACT Government is currently developing a new Housing Strategy for the ACT to support the delivery of equitable, diverse and sustainable housing supply across Canberra. The new Strategy will have a particular focus on increasing housing access and choice for households in the lowest 40 per cent of incomes.

Further that the questions include a focus on how the LVC might be used to promote better outcomes, including via energy efficiency.

### **The Lease Variation Charge**

The Lease Variation Charge (LVC) is an ACT Government charge on the increase in value that arises from the granting of additional lease conditions. It is based on the ACT's unique system of leasehold tenure.

In practice, LVC is based on codification which is, 'a public register of fixed charges for different land uses in all suburbs across the Territory.' The schedule of charges is reviewed annually and there are provisions for payment of a proportion of before and after valuations of sites that are not codified (generally for larger redevelopment projects).

The LVC is levied by the ACT Government when changes to permitted land use enhance the value of that land.

The ACT has a leasehold system of land tenure. It provided for orderly development, free of speculative land dealings (rife in Melbourne and Sydney at the beginning of last century) and defrayed some of the early costs of establishing the national capital.

A fundamental principle of leasehold is that, 'the unearned increment in the bundle of rights belongs to the community and thus remains with the community'.

Current LVC arrangements were legislated in 2011. However, some kind of premium charge on lease variations has been in place since 1971. Prior to 1971, the Commonwealth Government charged land rent, which academics such as the late Professor Max Neutze and the late Professor Pat Troy say was a more reliable and appropriate revenue stream.

As the Budget papers for 2018/19 notes the ACT "has less capacity and flexibility to raise own-source revenue in comparison to other jurisdictions. This is because Commonwealth Government employment, which contributes much of the Territory's wages expenditure, is exempt from payroll tax<sup>1</sup>".

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<sup>1</sup> ACT Treasury, Budget 2018/19, *ACT Government Budget paper no. 3*, page 231

The LVC earned the Territory \$22.9m in 2017/18 and the forward estimates are that the LVC will earn \$28.4m by 2021/22.

LVC, as with any tax, is subject to the policy objectives of Government. LVC was, for example, reduced to promote construction activity in Canberra following spending cuts in the 2014 Federal Budget.

Industry groups in the past have couched LVC as a developer cost and disincentive rather than a charge on a windfall gain. However, it is difficult to quantify disincentive claims and the extent to which there is an impact on redevelopment activity and ACT Government revenue.

### **Affordable housing priorities**

The discussion paper invites us to discuss how affordable housing priorities might be best advanced in the context of any program of LVC remissions.

The ACT Government commitment in 2016 to deliver an affordable housing strategy was widely welcomed by residents, community organisations and business leaders.

This is because the lack of affordable rental housing is the single biggest problem in the social and economic life of this city. It has the deepest impact on the greatest number of people and it is underpinning many areas of anxiety, poverty, misery and crisis in the lives of low income people in our city. There is a social, moral and economic imperative to act.

ACTCOSS has made repeated key asks in relation to housing affordability and homelessness across several Budget cycles and across both the Housing Strategy development process and the Housing Choices Collaboration Hub process. Our asks have included:

- \* Continuing to provide funding for emergency and transition accommodation and support services to enable them to meet demand;
- \* Addressing gaps in housing supply and increase accessible and affordable housing in the ACT;
- \* Developing whole-of-Government responsibility for homelessness that includes reporting requirements and minimum funding requirements for each ACT Government directorate.

ACTCOSS believes that we need a dedicated affordable land pipeline in the ACT to increase the supply of affordable housing at scale (i.e, hundreds of houses). We believe that a mix of investment, land transfers and planning and development levers are required and available at the ACT Government level.

We have also argued (most significantly in our responses to the housing choices paper and in recommendations substantially adopted by the housing choices group) that there is a need for planners and policy makers to ensure that communities emerge that are vibrant and cohesive with the means to build connection and avoid social problems and disputes, especially in more dense housing.

ACTCOSS supports additional densification with more housing choice and affordability in Canberra, but we do so with some important caveats – especially the need for attention to building quality and safety as well as a curatorial approach that creates communities with adequate social and community infrastructure, greenspace and community development resources to ensure the development of vibrant and harmonious communities.

There is specifically a need to invest in community development so that people have opportunities to build understanding, resilience, social capital, natural affinities and a sense of neighbourhood as well as feelings of safety.

High rise living offers great potential for community but also creates a need to invest to create feelings of safety and security in and around the precinct as well as responsive programs and services.

We would also note the need for housing advocacy and support for people who find themselves in neighbourhood disputes.

The discussion paper notes that some stakeholders have argued that the LVC may adversely impact housing affordability where project proponents pass this cost through to home buyers, and in turn to renters in case of investment properties. It has also been suggested that LVC does not support the goal of seeing existing properties repurposed for affordable housing.

However, LVC is only paid where a lease variation is required in order to undertake a particular development. As it is levied on the value uplift of the change in lease, the LVC reflects the price that would be paid for the land if the lease already enabled the proposed development. The LVC puts a proposed development on an equal footing with a development on land that already includes

the appropriate development rights. This is a fundamental cornerstone of Canberra's leasehold system of land tenure, and an important and legitimate source of revenue for the city. Other jurisdictions have similar 'developer contribution' charges to cover the underlying cost of growth and the increasing demand on public services and facilities. Any erosion of this cornerstone should be critically examined to ensure that the fundamental principle of equity is not undermined.

### **ACTCOSS's Position**

ACTCOSS's position on the LVC is that the charge is an important revenue stream and sound public policy in a leasehold system. The transaction price of land should reflect the fact that it is a lease of a fixed term duration and for a defined purpose or purposes, and not freehold with perpetual duration.

That being said, ACTCOSS believes LVC remissions could be used to facilitate affordable housing, particularly on well situated urban renewal sites.

The challenge is to capitalise on the community benefits of the leasehold tenure system without contributing to the complexity or erosion of that system.

Our position therefore would be to stress that any LVC remissions should only be offered at a high threshold in terms of affordability and that remission revenues be redirected towards a curatorial approach which ensures social sustainability, social capital and developer lead community development within suburban developments.

In respect of the latter, ACTCOSS has been working with a grant from the Property Council to explore a framework and tools for incorporating social sustainability in (sub)urban planning and development. This work seeks to broaden the skills of planners and developers with community knowledge on the importance of deliberately planning for equity and social justice. It will map mechanisms for enabling/requiring social sustainability, and identify current barriers and opportunities.

### **Recommendations**

The LVC be retained and any changes to LVC be considered in the context of sustainable revenue streams for the ACT to

maintain community services at the quality and quantity that the community expects and deserves.

Any LVC remissions should only be offered if the site includes greater than 20% affordable housing using the 30:40 rule.

Some of the LVC revenue should be allocated to build the capacity of developers to incorporate social sustainability in urban renewal and suburban development projects.

Yours sincerely

A handwritten signature in black ink, appearing to read "P. Kelly". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Director

17 October 2018

