

# Land Tax (Affordable Community Housing) Determination 2021

## Disallowable instrument DI2021–18

made under the

*Land Tax Act 2004*, s 13A (5) (a) (Determination of eligibility criteria) and s 13A (5) (b) (Determination of maximum number of parcels of land)

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### 1 Name of instrument

This instrument is the *Land Tax (Affordable Community Housing) Determination 2021*.

### 2 Commencement

This instrument commences on the date after notification.

### 3 Definitions

In this instrument:

*Act* means the *Land Tax Act 2004*.

*affordable community housing*—see the Act, section 13A (8).

*child* means a person who is:

- (a) under 18 years of age; and
- (b) financially dependent on a person within an eligible household.

*Commissioner* means the Commissioner for ACT Revenue under section 73 of the *Taxation Administration Act 1999*.

*owner* includes:

- (a) the owner of a parcel of land; or
- (b) if the owner has authorised an agent to act on the owner's behalf in relation to the parcel—the agent.

*parcel* means—see the Act, dictionary.

*parcel of land* means a parcel of rateable land that is:

- (a) residential land; and
- (b) made available by the owner to a registered community housing provider for the purposes of affordable community housing.

*rateable land* means—see the Act, dictionary.

*registered community housing provider*—see the Act, section 13A (8).

*rented* means—see the Act, dictionary and means rented for *rent* as defined in the Act, s 7.

*residential land* means—see the Act, dictionary.

#### 4 **Determination—eligibility criteria (owner)**

For the purposes of section 13A (5) (a) of the Act, I determine the criteria that an owner of a parcel of land must satisfy before being eligible for an exemption under section 13A of the Act to be:

(a) ***Criterion 1***

An owner must:

- (i) have entered into an agreement with a registered community housing provider to make available the owner's parcel of land for the purpose of affordable community housing; and
- (ii) within 14 days of the parcel of land being rented for affordable community housing, provide to the Commissioner:
  - (A) a copy of the agreement with the registered community housing provider for the parcel of land; and
  - (B) any other information the Commissioner may require to confirm that the owner is eligible for an exemption under section 13A of the Act.

(b) ***Criterion 2***

- (i) The parcel of land must be rented by an individual or individuals at a rate that is less than 75 per cent of the current market rent for that parcel of land.
- (ii) For the purposes of this criterion, *market rent* means rent that would be charged by the lessor of a parcel of land if the land were rented by a willing lessor to a willing tenant:
  - (A) dealing with each other at arm's length; and
  - (B) each of whom had acted knowledgeably, sensibly and without compulsion.

(c) ***Criterion 3***

- (i) The parcel of land must be rented by an individual or individuals whose combined gross income is less than or equal to the greater of:
  - (A) \$100,000 per annum; or
  - (B) the applicable amounts described in Table 1 and section 4 (c) (ii).

**Table 1—Household composition income limits 2020-21 year**

	<b>Income limit (per annum)</b>
First adult	\$52,324
First sole parent	\$55,034
Each additional adult	\$20,017
Each child	\$17,357

(ii) The income limits in section 4 (c) (i) (B) for a household for each subsequent year beginning 1 May are the amounts for the previous year indexed in accordance with the tenant income index, rounded to the next whole dollar.

(iii) For the purposes of this criterion:

*combined gross income* as it relates to an individual or individuals renting a parcel of land, means the combined gross income of that individual or those individuals at the time the parcel of land is first rented by the individual or individuals.

*tenant income index* means the All Groups component of the Consumer Price Index, Percentage Change from Corresponding Quarter of Previous Year, December quarter, using the all groups weighted average of eight capital cities, as published in the Australian Bureau of Statistics publication Cat. no. 6401.0—Consumer Price Index, Australia, CPI: Groups, Weighted Average of Eight Capital Cities, Index Numbers and Percentage Changes, rounded to the nearest single decimal point.

## **5 Determination—maximum number of parcels**

(a) For the purposes of section 13A (5) (b) (i) of the Act, I determine that the maximum number of parcels of land that are entitled to an exemption under section 13A of the Act is 250 parcels of land.

(b) For the purposes of section 5 (a):

(i) calculation of the 250 parcels of land is to include any parcels of land exempted under the:

(A) *Land Tax (Affordable Community Housing) Determination 2019 (No 2)*; and

(B) *Land Tax (Affordable Community Housing) Determination 2020*; and

(ii) a parcel of land that has been exempted under section 13A of the Act will continue to be counted in the total number of parcels of land, even if the parcel of land ceases to be eligible for the exemption, whether for a period or permanently.

**Example** A parcel of land that was previously exempted under section 13A of the Act is not being used for affordable community housing a period of time. While the owner of the land is no longer eligible for the exemption from land tax for relevant quarters, the parcel of land is still counted one of the 250 parcels of land that may receive an exemption. If the use of the parcel of land returns to affordable community housing then the exemption may apply.

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

## **6 Revocation**

This instrument revokes *Land Tax (Affordable Community Housing) Determination 2020*, DI2020-277.

Andrew Barr MLA  
Treasurer

27 January 2021