
SHARED EQUITY SCHEME POLICY

Table of Contents

1. Introduction	3
2. Scheme Objectives	3
3. Commissioner's Eligibility Criteria	4
4. Commissioner's Sale Policy	4
5. Request for Review	4
6. Financier's Lending Criteria	5
7. Sale of the Property	5
8. Process	5
• Administration of the Shared Equity Scheme	5
• Determining property availability	5
• Properties not available for sale.	6
• Assurance payments	6
• Properties available for sale	6
• Tenant Improvements	7
• Property Valuations	7
• Maintenance	7
• Pest, Building and Energy Reports	8
• Contract Package	8
• Exchange	9
• Settlement	9
• Registration of Documentation	9
9. Commissioner's Equity Loan Agreement	9
10. Additional Payments	10
11. Legislative Base	10
Annex A – Tenant Improvements	11

1. INTRODUCTION

The Affordable Housing Action Plan 2007 was introduced in April 2007. The Action Plan outlined several objectives and initiatives to improve access to affordable Housing in the ACT. One of the strategies contained in the plan aimed to encourage public housing tenants to consider their home ownership options and the introduction of a Shared Equity Scheme was recommended.

2. SCHEME OBJECTIVES

The Shared Equity Scheme is aimed at providing an alternative home ownership opportunity to public housing tenants.

The objectives of the Shared Equity Scheme are:

- Provide a home ownership opportunity to public housing tenants;
- Encourage lower to moderate income earning tenants to consider home purchase as an option, thereby releasing funds to facilitate the increase in supply of appropriate housing for those tenants with a greater financial need;
- Relinquish assets to generate additional funding for the rejuvenation of the public housing stock portfolio through acquisition, construction and/or refurbishment;
- Procure appropriate replacement housing targeted at prospective tenant needs.

The steps in the process follow those of the Sale To Tenant Scheme except that financial arrangements for an Equity Loan Agreement have been put into place.

3. COMMISSIONER'S ELIGIBILITY CRITERIA

For an applicant to be assessed by the Commissioner as an eligible Shared Equity Scheme participant, under the Commissioner's Shared Equity Scheme, the applicant must satisfy all of the following criteria:

- Be a current head tenant and occupant of the dwelling that they are applying to purchase (This applies to at least one applicant where the applicants are husband and wife or a defacto couple);
- Have been a continuous public housing tenant for at least 3 years prior to registering an interest in purchasing the property (The husband/wife or defacto partner of the head tenant may also be an applicant in conjunction with the head tenant, if they are not listed as such, and provided they also occupy the Property);
- The applicant must have no record of rental arrears within the last 12 months or legal action pending tenancy matters (apart from rental arrears of a minor or trivial nature).

In the situation where family or friends wish to support the purchase, the tenant must agree to be registered on the Certificate of Title as owning a minimum of 50% of equity in the property (“tenants in common”).

4. COMMISSIONER’S SALE POLICY

The Commissioner has the sole and absolute discretion to make Properties available for purchase by tenants under the Commissioner’s Shared Equity Scheme.

When exercising this discretion, the following factors will be considered by the Commissioner:

- the age of the property;
- the size of the property (block size, number of bedrooms);
- the location/zoning of the property (suburb);
- the current percentage of stock (level of ownership of the Commissioner) in the suburb;
- the demand and waitlist need in the suburb;
- the availability of replacement properties; and
- the development potential of the property.

A property **may not** be made available for purchase by Eligible Scheme Participants if it satisfies one of the following criteria:

- it is not separately titled, for example, a flat;
- the level of stock holdings in the suburb is less than 5% and a suitable replacement property is unlikely to be sourced;
- the property is less than 10 years old (based on construction date, not acquisition date), unless there are particular circumstances taken into account by the Commissioner;
- maintenance works funded by the Commissioner over the past 3 years exceeds 25% of the value of the dwelling on the property (not including the land component);
- it is a larger property and would be difficult to replace meaning the Commissioner cannot meet the stock replacement objectives;
- the property has potential future redevelopment options;
- the property has potential for upgrading; or
- the property would be hard to replace due to current market activity.

5. REQUEST FOR REVIEW

Should the tenant disagree with the decision not to sell the property, the tenant is entitled to a Right of Review. The first level of review is by a senior officer in the area where the original decision was made. The Right of Review request must reach Housing ACT within 14 days from the date of the advice letter. The tenant will be advised in writing of the outcome of this review.

6. FINANCIER'S LENDING CRITERIA

IMB Ltd is the sole financial provider under the Shared Equity Scheme. The tenant will need to apply to IMB to finance their Equity Share in the property. The tenant will need to satisfy IMB's Lending Criteria.

Following the assessment process, if the Tenant is assessed as satisfying the Lending Criteria, IMB will:

- notify the Tenant and the Commissioner; and
- offer to provide first mortgage finance to the Tenant for the Tenant's Equity Share in the Property, and provide the applicable documents to the Tenant
- If the Tenant is assessed as not meeting the Lending Criteria, IMB will notify the Tenant and the Commissioner in writing.

7. SALE OF THE PROPERTY

If the Eligible Scheme Participant is assessed as satisfying the Commissioner's Eligibility Criteria; and IMB's Lending Criteria, the sale of the property may proceed.

8. PROCESS

Administration of the Shared Equity Scheme

Housing ACT administers the Shared Equity Scheme including all associated promotional and policy information. A Shared Equity Information Kit is available, on request, to tenants interested in purchasing their Housing ACT home. The Kit contains information relating to the scheme and includes a "Registration of Interest Form", which is the first step in commencing the application to purchase the property.

On receipt of the form, Housing ACT will assess the tenant eligibility to purchase and commence the property assessment to determine if the property is available for sale.

Determining property availability

The Shared Equity Scheme seeks to facilitate home ownership for tenants unless the specific property is required for the overall management of the public housing stock. Housing ACT will determine if the property is available for sale using the criteria outlined in section 4 of this policy.

Properties not available for sale.

If it is determined that the property is not available for sale, Housing ACT will notify the tenant in writing. The decision made by Housing ACT, in relation to the sale of its assets, will be based on this Shared Equity Policy document and the Public Housing Asset Management Strategy.

Assurance Payments

The total fees payable by tenants to Housing ACT for the Shared Equity process is \$1000.00. This amount is non-refundable if it does not reach settlement; however at time of settlement, the \$1000.00 is treated as the deposit and will be deducted from the full purchase price.

The \$1000.00 deposit is made up of the following:

- **Administration Fee** non-refundable – \$300.00 to be paid on receipt of the advice from Housing ACT that the property has been assessed as available for sale.
- **Assurance Fee** non-refundable - \$700.00 to be paid on notification of the sale price.

At settlement, tenants are responsible for the payment of Stamp Duty, Solicitor's fees, Bank fees, Insurance and of any adjustments in rent, general rates, water and sewerage rates and the cost of the building, pest and energy rating report. If the applicant is eligible for the First Home Owner's Grant this grant may help to cover these costs.

Properties available for sale

If it is determined that the property is approved for sale to the tenant, Housing ACT will advise the tenant in writing. The advice letter is aimed to assist the tenant to determine, prior to committing any funds, whether they can afford to proceed to the next step.

The advice letter will advise the average sale price for properties in your suburb derived from the allhomes website. Tenants are encouraged to conduct their own investigations into the current status of the property market.

Tenants are also encouraged to commence making enquiries regarding their ability to finance the purchase of the property with our partner IMB Ltd.

Included with the advice letter will be a "**Proceed with Market Valuation** form", which is to be completed by the tenant and returned to Housing ACT if the tenant chooses to proceed with the purchase.

A non-refundable **Administration Fee** of \$300.00 is required. The receipt for payment must be attached to the **Proceed with Market Valuation** form and returned to Housing ACT for the sale process to progress. The payment of \$300.00 is non-refundable should the tenant withdraw from the purchase at any stage in the process. However, it will act as a partial deposit and will be credited to the purchaser at time of settlement. (See also: **Assurance payments**)

When completing the “**Proceed with Market Valuation** form”, the tenant is requested to declare their list of any assessable improvements.

Tenant Improvements

Tenants may apply to have the added market value of approved assessable improvements they have made to the property deducted from the sale price. Only improvements which have approval from Housing ACT will be considered as Tenant improvements under this scheme. A member of the panel of qualified valuers, engaged by Housing ACT to provide this service, will assess the value of the improvements. The assessment of improvements will be based on the value they add to the property, not the cost to the tenant.

Annex A to this policy and the Valuation Guidelines included in the Information Kit outline in more detail the improvements which may be taken into consideration at valuation.

Property Valuations

On receipt of the “**Proceed with Market Valuation** Form”, including the declared list of tenant improvements and the payment of the non-refundable \$300.00 **Administration Fee**, Housing ACT will request an independent valuer to conduct a market valuation.

The valuer will arrange a mutually convenient time to meet with the tenants at home, reminding them to have any building approvals ready for him/her to witness while inspecting the property. [Housing ACT may at any time request copies of the approvals.] The valuer will compile the valuation report, taking into consideration the approvable tenant improvements and forward it to Housing ACT for evaluation and consideration.

Housing ACT will advise the tenant of the sale price and the 70% Tenant Equity price in writing. The sale price advised by Housing ACT is final and not subject to negotiation. The valuation report remains the property of Housing ACT and IMB and will not be released to tenants.

At this stage the Tenant will be directed to approach IMB for assessment against IMB’s Lending Criteria. A **Proceed to Reports** form will accompany the advice letter.

Housing ACT will also advise IMB of the sale price and the 70% Tenant Equity price and provide them with a copy of the valuation and a printout of the tenant’s rental payments for the preceding 12 months.

Should the Tenant choose to proceed and has satisfied IMB’s Lending Criteria, they should complete the **Proceed to Reports** Form and submit a further non-refundable **Assurance Fee** of \$700.00 to initiate the obtaining of the building, pest and energy reports, and the preparation of contract. Should the applicant withdraw from the purchase at any stage later in the process, this payment is non-refundable. However, this payment will act as a partial deposit and will be credited to the purchaser at time of settlement. (See: **Assurance Payments**)

Maintenance

On receipt of the **Assurance Fee** payment of \$700.00, and prior to arranging the Building inspection, Housing ACT will formally advise both the tenant and the Total

Facilities Manager, Spotless that all maintenance including planned maintenance of the property, other than health, safety and security issues will cease.

Pest, Building and Energy Reports

On receipt of the payment of \$700.00 **Assurance Fee** and return of the **Proceed to Reports** Form, Housing ACT will arrange for a building inspection to be conducted. The Building Inspector will arrange a mutually convenient time to meet with the tenants at home.

When the Building Report is received, Housing ACT will instruct one of its solicitors to prepare the Contract package. The solicitors will prepare contracts including all required building, pest and energy rating reports in compliance with the Civil Law (Sale of Residential Property) Act 2003.

The purchaser will be responsible at time of settlement for paying for these reports under the Civil Law (Sale of Residential Property ACT) 2003. The cost of the building, pest and energy reports will be approximately \$850 and is to be met by the purchaser at time of settlement.

Contract Package

The draft contract package will include the following documentation:

- Contract for Sale (including Building reports);
- Special Conditions;
- Commissioner's Equity Loan Agreement and mortgage:
- Statutory Declaration for the tenant's Solicitor to acknowledge that they have explained all the documentation; and
- A Financial Advisor's Certificate which certifies that the financial advisor has explained the financial obligations of the tenant and Housing ACT under the Shared Equity scheme.

Housing ACT will provide the contract package, a **Letter of Offer** and an **Acceptance of Offer** form to the tenant. The tenant must take the contract to their solicitor; they also need to visit a financial advisor to have all the financial requirements and obligations of the Shared Equity contract explained in detail. Both the solicitor and financial advisor will be requested to sign a document indicating that they have explained the details. The tenant must also sign to acknowledge that they have understood their obligations under the scheme. *(Housing ACT will provide \$300.00, at Settlement, to alleviate the costs of the solicitor and financial advisor)*

IMB will notify Housing ACT and the tenant of the loan approval and will require Housing ACT to execute a Deed of Priority and return to IMB.

If the tenant chooses to proceed with the purchase they will return the **Acceptance of Offer** form to Housing ACT. This document, which will contain the tenant's solicitor's details, will be sent immediately to the Commissioner's solicitor.

Exchange

At exchange the Commissioner's solicitor will arrange for the:

- exchange of the Contract for Sale;
- return of the Commissioner's Equity Loan Agreement and mortgage;
- return of the Solicitor's Statutory Declaration; and
- return of the Financial Advisor's Certificate.

The Commissioner will return the executed IMB mortgage document to IMB.

Settlement

On Settlement of the Contract for Sale, title to the property will be legally transferred to the Tenant (now: Buyer) as follows:

- IMB will provide the Commissioner with cheque(s) for the Buyer's Equity Share at the time of sale in accordance with the Contract for Sale;
- the Buyer will provide IMB with a cheque for the fees for registration of all applicable documentation;
- the Buyer will provide the executed Transfer to IMB for registration;
- the Commissioner will provide IMB with the Commissioner's mortgage for registration; and
- the Commissioner will provide the Certificate of Title to IMB.

IMB will execute the Deed of Priority and provide a copy to the Commissioner.

Registration of Documentation

IMB must register the following documents with the Land Titles Office following settlement of the Contract for Sale in the following order:

- Transfer;
- Financier's Mortgage; and
- Commissioner's mortgage.

The cost for registration will be borne by the Buyer.

9. COMMISSIONER'S EQUITY LOAN AGREEMENT

The Commissioner's Equity Loan Agreement will stipulate the following:

- At the time of sale of the property the Buyer will be required to pay the Commissioner the market value of a minimum 70% interest in the Property. *(The loan organised through IMB)*
- Title to the Property will be transferred into the name of the Buyer at the time of sale.

- Buyer is to purchase remaining Equity Share from the Commissioner within 15 years of Settlement. Compulsory payments are to be made as follows:
 - 5 years after Settlement, 15% of Housing ACT's Equity Share of the property
 - 15 years after Settlement, remainder of Housing ACT's Equity Share.

The payments will be calculated on the market value of the property at the time of making a payment. As a result, you and Housing ACT will share in increases / decreases in the property value (i.e. share the equity in the property).

- Capital improvements to the Property will not result in an adjustment to the Housing ACT's Equity Share. That is, any capital improvements made by the Buyer will be included in any valuation of the Housing ACT's Equity Share.
- If the Buyer intends to sell the Property, they will be required to first notify the Commissioner. The Commissioner may elect to purchase the Property from the Buyer.

10. ADDITIONAL PAYMENTS

Buyers are encouraged to make additional repayments as soon as they are able, to increase their Equity Share in the property and reduce Housing ACT's Equity Share.

Additional payments need to be made for no less than 5% of Housing ACT's Equity Share. Before making an additional payment, an independent valuation is required to determine the amount, which is 5% of Housing ACT's Equity Share at that time.

If a Buyer would like to make an additional payment then they are required to notify Housing ACT by submitting a **Notice of Intention to Increase Equity Share Percentage** form.

On receipt of this form Housing ACT will organise an independent valuation of the property. Buyers are advised that capital improvements to the Property will not result in an adjustment to the Housing ACT's Equity Share. That is, any capital improvements made by the Buyer will be included in any valuation of the Housing ACT's Equity Share.

11. LEGISLATIVE BASE

- Housing Assistance Act 2007
- Financial Management Act 1996 (ACT)
- National Consumer Credit Protection (transitional and Consequential Provisions) Act 2009
- Privacy Act 1988 (Cth)
- Freedom of Information Act 1996
- Public Housing Asset Management Strategy

TENANT IMPROVEMENTS

In accordance with the Tenancy Agreement (paras 67-68) “the tenant must make no alterations and must not add any fixtures or fitting without the consent of the lessor”.

There is a form “**Application to Modify a Housing ACT Property**” obtainable from Housing Managers which must be submitted to obtain approval for any alteration. Copies of this form and of any subsequent other agency approvals, must be submitted to Housing ACT where they will be held on the property file.

Tenants may apply to have the added market value of approved assessable improvements they have made to the property deducted from the sale price. A member of the panel of qualified valuers, engaged by Housing ACT to provide this service, will assess the value of the improvements. The assessment of improvements will be based on the value they add to the property, not the cost to the tenant.

Eligible tenants for the **Shared Equity Scheme** are advised that deductions for tenant improvements are only applicable at the **initial** valuation prior to purchase. In further valuations to ascertain the market value, improvements will not be deducted to assess the amount of repayments.

Assessable tenant improvements

Where items listed below require building approvals from relevant agencies, tenants may be required to produce these at the time of the valuation inspection by the appointed valuer. If the approval is not produced, and copies have not been submitted to Housing ACT, the items will not be considered by the valuer as an improvement and will not be deducted from the sale price.

The following list explains what will be assessed as a tenant improvement:

External

Swimming Pool (in ground)

Pergola*

Decking*

Shed*

Carport*

Garage**

Granny Flat**

Internal

Ducted Air conditioning

Ducted Heating

Built in robes

* Depending on size these structures will also require ACTPLA approval.

**These structures will require ACTPLA approval

Non-assessable tenant improvements

These items will not be included as tenant improvements:

- Floor coverings: These are provided and replaced on a regular basis by Housing ACT and even if the tenant has replaced them at their own cost, there is no added value to the property.
- Painting: Provided by Housing ACT and even if the tenant has repainted at their own cost, it does not add value to the property.
- Fencing: Housing ACT provides these, and if the tenant has replaced at their own cost, there is no added value to the property.
- Dishwasher.
- All landscaping* (including any paving, retaining walls, concrete and brickwork).
- All items not listed as “assessable tenant improvements”.

* In special circumstances where the Valuer deems that the landscaping and gardens provide more than a neat, serviceable garden; add to the value of the property; and approval for any paving, retaining walls, concrete and brickwork has been sought, consideration for being included as an assessable improvement may be given.