

PRIME TRUST ACTION GROUP

28 January 2020

Mr Andrew Bleeze
Discretionary Payments, Risk and Claims Branch
Department of Finance

By email: SFC@finance.gov.au

Dear Mr Bleeze

PRIME RETIREMENT AND AGED CARE PROPERTY TRUST

We refer to your email of Monday 20 January.

We note that the CDDA Scheme operates on the basis of authority provided to individual portfolio ministers under the executive powers of sections 61 and 64 of the Australian Constitution (refer paragraph 6 of Resource Management Guide 409, as issued by the Department of Finance, dated May 2017). We therefore submit that the lack of any provision in ASIC's enabling legislation, therefore does not prevent ASIC being the subject of a CDDA Scheme application.

We also refer to various previous defences to our CDDA Claim (notably the ministerial authorisation issue and the ASIC Act Section 12 issue) and our rebuttal of these defences as outlined in our letter to ASIC dated 10 December 2019. Accordingly, we will write to ASIC requesting details of the action they have taken in assessing our CDDA Claim under ASIC's "Guide to Assessing Claims for Compensation Under the CDDA Scheme", which they are and were required to do having received our claim in February 2019.

We also refer to paragraph 3 of Resource Management Guide 409, which with respect outlines that the Department of Finance does not manage CDDA Scheme claims relating to the actions of another entity, nor does it review CDDA Scheme decisions made by other entities.

Having made these points, we are cognisant of the size of, and serious issues raised in, our CDDA Claim. We are therefore prepared, on a without prejudice basis and reserving all our rights to have the matter dealt with under the ASIC procedures for assessing a CDDA Claim, to consider a face to face meeting with the Department of Finance and ASIC to discuss the issues. If you are prepared to continue on this basis, please contact the undersigned.

Yours faithfully,

Roger Pratt

Steve O'Reilly

copies

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