

Australian Capital Territory

Planning (Missing Middle Housing) Amendment Act 2026

A2026-17

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Australian Capital Territory

Planning (Missing Middle Housing) Amendment Act 2026

A2026-17

An Act to amend the *Planning Act 2023* and the *Planning (General) Regulation 2023*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

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Part 1 Preliminary

1 Name of Act

This Act is the *Planning (Missing Middle Housing) Amendment Act 2026*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Planning Act 2023* and the *Planning (General) Regulation 2023*.

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Part 2 Planning Act 2023

4 New section 42A

in part 4.2, insert

42A Meaning of *subdivision development proposal*—pt 4.2

(1) In this part:

subdivision development proposal means a development proposal to do both of the following:

(a) create or consolidate blocks;

(b) create or remove roads.

(2) A subdivision development proposal may also involve 1 or more of the following:

(a) changes to land use zones;

(b) design or construction requirements for roads or infrastructure;

(c) design or construction requirements for future development on the land the subject of the application.

5 Subdivision design applications Section 43 (3)

omit

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6 Effect of approval of subdivision design application New section 44 (3)

insert

(3) In this section:

ongoing provision means a provision that is proposed to apply to the ongoing development of the land the subject of the subdivision design application, if the provision is consistent with the territory plan (including any existing provision applying to the land that is stated in the territory plan as being mandatory).

Examples

1 an increased setback requirement

2 a reduced building envelope

7 What is a *minor plan amendment* and is consultation needed? Section 84 (2) (b)

omit

plan under section 43 (2)

substitute

application under section 43

8 New section 84 (3)

insert

(3) In this section:

ongoing provision—see section 44 (3).

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9 Meaning of *exempt development* Section 145 (1), definition of *exempt development*, new paragraph (a) (ia)

insert

(ia) section 149C (Exempt development declarations for lease variations); or

10 New division 7.2.1A

insert

Division 7.2.1A Variations of nominal rent leases—exempt development

149A Application—div 7.2.1A

This division applies to the following variations of a nominal rent lease:

(a) a variation to state the maximum number of dwellings permitted on the land under the lease;

(b) a variation to change the maximum number of dwellings permitted on the land under the lease;

(c) a variation to authorise the use of the land for a secondary residence;

(d) a variation to a provision of the lease relating to an easement;

(e) a variation prescribed by regulation.

149B Application for exempt development declaration for lease variation

(1) A proponent of a lease variation may apply to the territory planning authority for a declaration that the variation is an exempt development.

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(2) The application must be accompanied by—

(a) if the proponent is not the lessee of the land to which the application relates—the written consent of the lessee to the variation; and

(b) if the application relates to a variation of a provision of the lease relating to an easement over the land—the written consent of the beneficiary of the easement to the variation; and

(c) any information, plans and other documents prescribed by regulation.

149C Exempt development declarations for lease variations

(1) Within 10 working days after the day a proponent makes an application under section 149B in relation to a lease variation, the territory planning authority must—

(a) make a declaration that the variation is an exempt development; or

(b) refuse to make the declaration.

(2) The territory planning authority must not make a declaration unless satisfied that the lease variation—

(a) is not inconsistent with any other provision of the lease; and

(b) is suitable in the context of the land and surrounding area, including the permissible uses for the land and surrounding area; and

(c) is not inconsistent with an essential design element identified in a development approval; and

(d) meets any criteria prescribed by regulation.

Note The territory planning authority must not approve anything that is inconsistent with the territory plan (see s 52).

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(3) In deciding the application, the territory planning authority must consider any matters prescribed by regulation.

(4) The territory planning authority may, by written notice, ask the proponent for more information in relation to the application.

(5) The time for deciding the application mentioned in subsection (1)—

(a) stops on the day the authority asks the proponent for the information; and

(b) recommences on the day the proponent gives the information to the authority.

149D Expiry of exempt development declarations for lease variations

A declaration made by the territory planning authority under section 149C expires 3 years after the day it is made.

11 Application for exemption assessment New section 151 (1A)

insert

(1A) Subsection (1) does not apply to a variation of a nominal rent lease to which division 7.2.1A (Variations of nominal rent leases—exempt development) applies.

12 Use of land for leased purpose Section 276 (2) and note

substitute

(2) If the lease is a residential lease, the land may also be used for a home business.

(2A) If the lease is a residential lease that authorises the use of the land for a single dwelling only, the land may also be used for a secondary residence.

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13 Section 276, new note

insert

Note While the use of a residential lease for a home business or secondary residence is authorised under this section, beginning to use the land for a home business or secondary residence requires development approval unless the use is an exempt development (see pt 7.2).

14 Definitions—div 10.7.3 Section 327, definition of *original decision*

omit

section 334 (1) (b)

substitute

section 334 (1) (a)

15 Notice of assessment Section 329 (1)

substitute

(1) This section applies if—

(a) a development application for a chargeable variation of a nominal rent lease is approved; or

(b) a chargeable variation of a nominal rent lease is declared as an exempt development under section 149C (Exempt development declarations for lease variations).

(1A) The commissioner for revenue must give—

(a) a notice of assessment of the lease variation charge to the lessee; and

(b) if the proponent is not the lessee—a copy of the notice to the proponent.

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16 Section 329 (2) (a) and (b)

substitute

(a) for a chargeable variation for which a development application is approved—

(i) on the day the application is approved; or

(ii) if another day is prescribed by regulation—on that day; or

(b) for a chargeable variation declared as an exempt development under section 149C—

(i) on the day the declaration is made; or

(ii) if another day is prescribed by regulation—on that day.

17 Section 329 (3) (b)

substitute

(b) for a chargeable variation for which a development application is approved—the day the development approval lapses;

(c) for a chargeable variation declared as an exempt development under section 149C—the day the declaration is revoked or expires.

18 More than 1 chargeable variation Section 330

omit

approval

19 Non-standard chargeable variations Section 332 (4)

omit

approval for the relevant development application

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20 Non-standard chargeable variations—improvements Section 333 (3) (e) (iii) (B)

substitute

(B) if the lessee is not the proponent of the variation—the proponent;

21 Section 333 (3) (f)

omit

proposed in a development application

substitute

in a development proposal

22 Non-standard chargeable variations—working out statement Section 334 (1) (a) and (b)

substitute

(a) the lease variation charge for a non-standard chargeable variation has been worked out in accordance with section 332 (the ***original decision***); and

23 Section 334 (1) (c)

omit

section 329 (1)

substitute

section 329 (1A)

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24 Section 334 (2)

omit

applicant for the development application

substitute

proponent of the variation

25 Section 334 (3)

omit

applicant

substitute

proponent

26 Non-standard chargeable variations—application for reconsideration Section 335 (1)

omit

applicant for the development application in relation to

substitute

proponent of

27 Section 335 (1) (a)

omit

applicant

substitute

proponent

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28 Section 335 (2)

omit

a development approval of a development application

substitute

the development

29 Section 335 (2), note

omit

application

30 Section 335 (4)

substitute

(4) If the proponent is not the lessee, the lessee may apply for reconsideration under this section instead of the proponent.

31 Section 335 (5) (a) (i)

omit

section 329 (1)

substitute

section 329 (1A)

32 Non-standard chargeable variations—requirements for reconsideration application Section 336 (1) (b)

substitute

(b) if the applicant for the reconsideration is not the lessee—the applicant.

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33 Non-standard chargeable variations—reconsideration Section 337 (6) (b)

substitute

(b) if the applicant for the reconsideration is not the lessee—the applicant.

34 Lease variation charge—reassessment Section 340 (1) (a)

omit

35 Section 340 (1) (b)

omit

section 329 (1)

substitute

section 329 (1A)

36 Section 340 (3) (b), except note

substitute

(b) if the proponent of the chargeable variation is not the lessee—a copy of the notice to the proponent.

37 Application to defer payment of lease variation charges Section 342 (1)

omit

An applicant for a development application for

substitute

A proponent of

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38 Section 342 (2)

omit

applicant

substitute

proponent

39 Section 342 (3)

omit

applicant for the development application

substitute

proponent

40 Section 342 (3) (a)

omit

applicant

substitute

proponent

41 Certificate of lease variation charge and other amounts Section 346 (6), definition of *relevant person*, paragraph (b)

substitute

(b) a proponent for a development proposal in relation to the land, if the proponent is not the lessee.

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42 Dictionary, definition of *original decision*, paragraph (b)

omit

section 334 (1) (b)

substitute

section 334 (1) (a)

43 Dictionary, new definitions

insert

secondary residence, in relation to a residential lease of land, means a second dwelling on the land that is subordinate to the principal dwelling on the land.

subdivision development proposal, for part 4.2 (Subdivision design applications)—see section 42A.

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Part 3 Planning (General) Regulation 2023

44 Matters that may be included in subdivision design application—Act, s 43 (2) Section 9 (d)

substitute

(d) an ongoing provision;

45 Section 9, examples—par (d)

omit

46 New section 9 (2)

insert

(2) In this section:

ongoing provision—see the Act, section 44 (3).

47 Meaning of *recently commenced lease*—div 12.2 Section 73 (2), new definition of *application*

insert

application, for a variation of a lease, means—

(a) a development application for the variation of the lease; or

(b) an application under the Act, section 149B for a declaration that the variation of the lease is an exempt development.

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48 Standard chargeable variations—Act, s 327, def *standard chargeable variation* Section 75 (1) (a) to (c)

omit

a development application

substitute

the development

49 Section 75 (1) (h)

omit

application

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Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 24 March 2026.

2 Notification

Notified under the Legislation Act on 9 November 2026.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Planning (Missing Middle Housing) Amendment Bill 2026, which was passed by the Legislative Assembly on 21 October 2026.

Clerk of the Legislative Assembly

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