

2026

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Planning and Sustainable Development)

Planning (Missing Middle Housing) Amendment Bill 2026

Contents

		Page
Part 1	Preliminary	
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
Part 2	Planning Act 2023	
4	New section 42A	3
5	Subdivision design applications Section 43 (3)	3

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Contents

	Page	
6	Effect of approval of subdivision design application New section 44 (3)	4
7	What is a <i>minor plan amendment</i> and is consultation needed? Section 84 (2) (b)	4
8	New section 84 (3)	4
9	Meaning of <i>exempt development</i> Section 145 (1), definition of <i>exempt development</i> , new paragraph (a) (ia)	5
10	New division 7.2.1A	5
11	Application for exemption assessment New section 151 (1A)	7
12	Use of land for leased purpose Section 276 (2) and note	7
13	Section 276, new note	8
14	Definitions—div 10.7.3 Section 327, definition of <i>original decision</i>	8
15	Notice of assessment Section 329 (1)	8
16	Section 329 (2) (a) and (b)	9
17	Section 329 (3) (b)	9
18	More than 1 chargeable variation Section 330	9
19	Non-standard chargeable variations Section 332 (4)	9
20	Non-standard chargeable variations—improvements Section 333 (3) (e) (iii) (B)	10
21	Section 333 (3) (f)	10
22	Non-standard chargeable variations—working out statement Section 334 (1) (a) and (b)	10
23	Section 334 (1) (c)	10
24	Section 334 (2)	11
25	Section 334 (3)	11
26	Non-standard chargeable variations—application for reconsideration Section 335 (1)	11
27	Section 335 (1) (a)	11
28	Section 335 (2)	12

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Planning (Missing Middle Housing) Amendment Bill 2026

A Bill for

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:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Planning (Missing Middle Housing) Amendment Act*
4 *2026*.

5 **2 Commencement**

6 This Act commences on the day after its notification day.

7 *Note* The naming and commencement provisions automatically commence on
8 the notification day (see [Legislation Act](#), s 75 (1)).

9 **3 Legislation amended**

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

1 Part 2 Planning Act 2023

2 4 New section 42A

3 *in part 4.2, insert*

4 42A Meaning of *subdivision development proposal*—pt 4.2

5 (1) In this part:

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

- 8 (a) create or consolidate blocks;
- 9 (b) create or remove roads.

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

- 12 (a) changes to land use zones;
- 13 (b) design or construction requirements for roads or infrastructure;
- 14 (c) design or construction requirements for future development on
15 the land the subject of the application.

16 5 Subdivision design applications

17 Section 43 (3)

18 *omit*

- 1 **6** **Effect of approval of subdivision design application**
2 **New section 44 (3)**
- 3 *insert*
- 4 (3) In this section:
- 5 *ongoing provision* means a provision that is proposed to apply to the
6 ongoing development of the land the subject of the subdivision design
7 application, if the provision is consistent with the [territory plan](#)
8 (including any existing provision applying to the land that is stated in
9 the [territory plan](#) as being mandatory).
- 10 **Examples**
- 11 1 an increased setback requirement
12 2 a reduced building envelope
- 13 **7** **What is a *minor plan amendment* and is consultation**
14 **needed?**
15 **Section 84 (2) (b)**
- 16 *omit*
- 17 plan under section 43 (2)
- 18 *substitute*
- 19 application under section 43
- 20 **8** **New section 84 (3)**
- 21 *insert*
- 22 (3) In this section:
- 23 *ongoing provision*—see section 44 (3).

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

4 *insert*

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

7 **10** **New division 7.2.1A**

8 *insert*

9 **Division 7.2.1A** **Variations of nominal rent leases—**
10 **exempt development**

11 **149A** **Application—div 7.2.1A**

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

- 14 (a) a variation to state the maximum number of dwellings permitted
15 on the land under the lease;
- 16 (b) a variation to change the maximum number of dwellings
17 permitted on the land under the lease;
- 18 (c) a variation to authorise the use of the land for a secondary
19 residence;
- 20 (d) a variation to a provision of the lease relating to an easement;
- 21 (e) a variation prescribed by regulation.

22 **149B** **Application for exempt development declaration for lease**
23 **variation**

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

- 1 (2) The application must be accompanied by—
- 2 (a) if the proponent is not the lessee of the land to which the
- 3 application relates—the written consent of the lessee to the
- 4 variation; and
- 5 (b) if the application relates to a variation of a provision of the lease
- 6 relating to an easement over the land—the written consent of the
- 7 beneficiary of the easement to the variation; and
- 8 (c) any information, plans and other documents prescribed by
- 9 regulation.

10 **149C Exempt development declarations for lease variations**

- 11 (1) Within 10 working days after the day a proponent makes an
- 12 application under section 149B in relation to a lease variation,
- 13 the territory planning authority must—
- 14 (a) make a declaration that the variation is an exempt development;
- 15 or
- 16 (b) refuse to make the declaration.
- 17 (2) The territory planning authority must not make a declaration unless
- 18 satisfied that the lease variation—
- 19 (a) is not inconsistent with any other provision of the lease; and
- 20 (b) is suitable in the context of the land and surrounding area,
- 21 including the permissible uses for the land and surrounding area;
- 22 and
- 23 (c) is not inconsistent with an essential design element identified in
- 24 a development approval; and
- 25 (d) meets any criteria prescribed by regulation.

26 *Note* The territory planning authority must not approve anything that is

27 inconsistent with the [territory plan](#) (see s 52).

- 1 (3) In deciding the application, the territory planning authority must
2 consider any matters prescribed by regulation.
- 3 (4) The territory planning authority may, by written notice, ask the
4 proponent for more information in relation to the application.
- 5 (5) The time for deciding the application mentioned in subsection (1)—
6 (a) stops on the day the authority asks the proponent for the
7 information; and
8 (b) recommences on the day the proponent gives the information to
9 the authority.

10 **149D Expiry of exempt development declarations for lease**
11 **variations**

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

14 **11 Application for exemption assessment**
15 **New section 151 (1A)**

16 *insert*

- 17 (1A) Subsection (1) does not apply to a variation of a nominal rent lease to
18 which division 7.2.1A (Variations of nominal rent leases—
19 exempt development) applies.

20 **12 Use of land for leased purpose**
21 **Section 276 (2) and note**

22 *substitute*

- 23 (2) If the lease is a residential lease, the land may also be used for a home
24 business.
- 25 (2A) If the lease is a residential lease that authorises the use of the land for
26 a single dwelling only, the land may also be used for a secondary
27 residence.

13 Section 276, new note

2 *insert*

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

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

9 *omit*

10 section 334 (1) (b)

11 *substitute*

12 section 334 (1) (a)

**15 Notice of assessment
Section 329 (1)**

15 *substitute*

16 (1) This section applies if—

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

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

22 (1A) The commissioner for revenue must give—

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

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

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

2 *substitute*

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

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

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

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

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

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

17 Section 329 (3) (b)

12 *substitute*

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

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

**18 More than 1 chargeable variation
Section 330**

20 *omit*

21 approval

**19 Non-standard chargeable variations
Section 332 (4)**

24 *omit*

25 approval for the relevant development application

1 **20 Non-standard chargeable variations—improvements**
2 **Section 333 (3) (e) (iii) (B)**

3 *substitute*

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

6 **21 Section 333 (3) (f)**

7 *omit*

8 proposed in a development application

9 *substitute*

10 in a development proposal

11 **22 Non-standard chargeable variations—working out**
12 **statement**
13 **Section 334 (1) (a) and (b)**

14 *substitute*

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

18 **23 Section 334 (1) (c)**

19 *omit*

20 section 329 (1)

21 *substitute*

22 section 329 (1A)

- 1 **24 Section 334 (2)**
- 2 *omit*
- 3 applicant for the development application
- 4 *substitute*
- 5 proponent of the variation
- 6 **25 Section 334 (3)**
- 7 *omit*
- 8 applicant
- 9 *substitute*
- 10 proponent
- 11 **26 Non-standard chargeable variations—application for**
- 12 **reconsideration**
- 13 **Section 335 (1)**
- 14 *omit*
- 15 applicant for the development application in relation to
- 16 *substitute*
- 17 proponent of
- 18 **27 Section 335 (1) (a)**
- 19 *omit*
- 20 applicant
- 21 *substitute*
- 22 proponent

- 1 **28 Section 335 (2)**
- 2 *omit*
- 3 a development approval of a development application
- 4 *substitute*
- 5 the development
- 6 **29 Section 335 (2), note**
- 7 *omit*
- 8 application
- 9 **30 Section 335 (4)**
- 10 *substitute*
- 11 (4) If the proponent is not the lessee, the lessee may apply for
- 12 reconsideration under this section instead of the proponent.
- 13 **31 Section 335 (5) (a) (i)**
- 14 *omit*
- 15 section 329 (1)
- 16 *substitute*
- 17 section 329 (1A)
- 18 **32 Non-standard chargeable variations—requirements for**
- 19 **reconsideration application**
- 20 **Section 336 (1) (b)**
- 21 *substitute*
- 22 (b) if the applicant for the reconsideration is not the lessee—
- 23 the applicant.

- 1 **33 Non-standard chargeable variations—reconsideration**
2 **Section 337 (6) (b)**
- 3 *substitute*
- 4 (b) if the applicant for the reconsideration is not the lessee—
5 the applicant.
- 6 **34 Lease variation charge—reassessment**
7 **Section 340 (1) (a)**
- 8 *omit*
- 9 **35 Section 340 (1) (b)**
- 10 *omit*
- 11 section 329 (1)
- 12 *substitute*
- 13 section 329 (1A)
- 14 **36 Section 340 (3) (b), except note**
- 15 *substitute*
- 16 (b) if the proponent of the chargeable variation is not the lessee—
17 a copy of the notice to the proponent.
- 18 **37 Application to defer payment of lease variation charges**
19 **Section 342 (1)**
- 20 *omit*
- 21 An applicant for a development application for
- 22 *substitute*
- 23 A proponent of

38 Section 342 (2)

2 *omit*

3 applicant

4 *substitute*

5 proponent

39 Section 342 (3)

7 *omit*

8 applicant for the development application

9 *substitute*

10 proponent

40 Section 342 (3) (a)

12 *omit*

13 applicant

14 *substitute*

15 proponent

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

19 *substitute*

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

1 **42 Dictionary, definition of *original decision*, paragraph (b)**

2 *omit*

3 section 334 (1) (b)

4 *substitute*

5 section 334 (1) (a)

6 **43 Dictionary, new definitions**

7 *insert*

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

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

1 **Part 3** **Planning (General)**
2 **Regulation 2023**

3 **44 Matters that may be included in subdivision design**
4 **application—Act, s 43 (2)**
5 **Section 9 (d)**

6 *substitute*

7 (d) an ongoing provision;

8 **45 Section 9, examples—par (d)**

9 *omit*

10 **46 New section 9 (2)**

11 *insert*

12 (2) In this section:

13 *ongoing provision*—see the [Act](#), section 44 (3).

14 **47 Meaning of *recently commenced lease*—div 12.2**
15 **Section 73 (2), new definition of *application***

16 *insert*

17 *application*, for a variation of a lease, means—

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

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

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

4 *omit*
5 a development application
6 *substitute*
7 the development

8 **49 Section 75 (1) (h)**

9 *omit*
10 application

Endnotes

1 Presentation speech

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

2 Notification

Notified under the [Legislation Act](#) on 2026.

3 Republications of amended laws

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

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