Australian Capital Territory

Planning (Reduction and Deferral of Lease Variation Charges—RZ1 and RZ2) Determination 2026 (No 2)

Disallowable instrument DI2026–236

made under the

***Planning Act 2023*, s 338 (Reduction of lease variation charges) and s 343 (1) (a) (Approval to defer payment of lease variation charges)**

EXPLANATORY STATEMENT

A lease variation charge (**LVC**) is imposed when a lessee makes a chargeable variation of their lease under div 10.7.3 of the *Planning Act 2023* (the **Act**).

Section 338(1) of the Act provides that the Minister for Planning and Sustainable Development may determine, by way of disallowable instrument, circumstances in which the amount of LVC must be reduced. For each circumstance determined by the Minister, the Treasurer must determine the amount by which the LVC must be reduced (see s 338(2)). The amount must be expressed as a percentage of the LVC (see s 338(3)). The Commissioner for ACT Revenue must then reduce the LVC by the amount determined.

The amount remaining after the reduction needs to be paid or deferred before the lease variation can be executed (see s 328 of the Act).

Section 343(1)(a) of the Act provides that the commissioner for revenue must approve an application to defer the payment of a lease variation charge under s 342 of the Act if the total lease variation charge to be deferred is at least the amount determined by the Treasurer.

The *Planning (Reduction and Deferral of Lease Variation Charges—RZ1 & RZ2) Determination 2026 (No 2)* (the **Instrument**) will commence on the commencement of the *Planning (Missing Middle Housing) Amendment Act 2026*, section 3 to align with the commencement of the amendments to the *Planning (General) Regulation 2023*.

Changes in this instrument

Minor updates have been made to incorporate references for the new exempt development pathways where appropriate. The amendments will ensure that the instrument applies to both development applications and exempt development declarations.

An amendment also makes it clear that all of the criteria must be met to ensure that the reduction applies. Examples have been added of some potential scenarios where a person may not meet the conditions for the reduction focusing on the certificate of occupancy.

An additional clarification has been included that a person must be approved for the deferral before a certificate of occupancy is issued. Certificates of occupancy can only be issued after any LVC under a deferral arrangement has been paid – regulation 35B of the *Building (General) Regulation 2008*.

The amendments are technical and do not alter the overall operation of the reduction and deferral arrangements under the determination.

Background

The Government has committed to enabling the delivery of 30,000 new homes by 2030 under its Missing Middle Housing Reforms. The Reforms focus on residential developments of multi-occupancy housing (such as dual- and tri-occupancy), terraces, townhouses and low-rise apartments (up to 3 storeys) built in low-density RZ1 and RZ2 zones.

In the 2026-27 Budget, the Government announced a reduction of the LVC for standard chargeable variations to incentivise construction of dwellings in RZ1 and RZ2 zones to support the delivery of 30,000 new homes by 2030.

The Instrument provides that the LVC imposed on standard chargeable variations for RZ1 and RZ2 developments must be reduced by 50% in the circumstances set out below.

Reducing the LVC will provide an incentive for builders or homeowners to begin construction activity and contribute to the delivery of new homes by 31 December 2030.

When the reduction applies

In essence, the 50% LVC reduction will be available when all the following conditions are met:

- The chargeable variation (meaning a lease variation that is chargeable under the Act) is a standard chargeable variation. The requirement to add 1 or more dwellings must include a lease variation charge limiting the number of residential dwellings or increasing the maximum number of dwellings. A chargeable variation solely for subdivision or consolidation of the land under the lease will not be eligible; and
- the chargeable variation is for a development proposal that to add one or more dwellings on the land located in either RZ1 or RZ2; and
- an application to defer the payment of LVC under section 342 of the Act is made to the commissioner for revenue on or after 10 June 2026 and which the commissioner approves (this includes any conditions included in an arrangement under section 52 of the *Taxation Administration Act 1999*); and
- a certificate of occupancy for each permitted dwelling on the land must be issued for each additional dwelling (meaning all dwellings must have a certificate of occupancy) by 31 December 2030. The certificate of occupancy for each permitted dwelling must be granted after the commissioner has approved the application to defer LVC.

The reduction does not apply where LVC was paid before the commencement of this instrument or deferred before 10 June 2026 (the Budget announcement date).

The LVC must be deferred to enable the variation of the lease to be executed under s 328 (1) (b) of the Act, thus allowing the approved works (or construction) for the dwellings to commence.

The requirement that certificate of occupancy for each additional dwellings must be issued by 31 December 2030 will ensure that the creation of the additional dwellings will contribute to the Government's commitment to deliver 30,000 homes by 2030. If the certificate of occupancy is issued on or after 1 January 2031, the LVC reduction will not apply.

All the criteria must be met to be eligible for the reduction. For example, if a person attempts to sell the property before meeting all the listed criteria, they are not eligible for the reduction and the full amount of LVC must be paid (if the variation to the Crown lease has been executed).

The Instrument is scheduled to expire on 31 December 2030 to coincide with the timeline for the completion of the additional dwellings in RZ1 and RZ2 and the Government's commitment.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au