



ACT
Government

DETAILED CONSULTATION REPORT

REVIEW OF THE
LEASE VARIATION CHARGE

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ABOUT THE REPORT AND REVIEW

This report brings together feedback received from stakeholders during the consultation phase of the *Review of the Lease Variation Charge* (LVC) and outlines the issues that are being considered by the Government.

This review will inform the Government on how reforms that have been made to the LVC framework in recent years are flowing through to development and community outcomes, and whether further improvements are needed. This will help ensure the LVC continues to achieve the objective of sharing the benefit of land value uplift with the community while aligning with the Government's urban renewal and housing supply policies.

The scope of the review requires that any future changes to the LVC regime be revenue neutral.

CONSULTATION AND PROCESS SO FAR

The review commenced in July 2018¹ in response to a motion in the Legislative Assembly. The Government released a consultation paper for feedback in September 2018, with interested stakeholders invited to make written submissions.

Twelve submissions were received from community organisations, groups representing the property and housing industry, and individual members of the community.

- ACT Law Society
- Inner South Canberra Community Council
- Kingston Barton Residents Group
- Australian Property Institute
- ACT Council of Social Service
- Property Council of Australia
- Master Builders Association
- Griffith Narrabundah Community Association
- Evri Group
- Glen Dowse (DNA Architects)
- Housing Industry Association
- Individual (name withheld on request)

A preliminary *What we heard* report was released in November 2018. This report provided information on the key insights received from stakeholders.

ACT Government officials undertaking the review also met with a number of stakeholders during the consultation phase of the review to discuss the issues raised in submissions.

This report represents the final stage of the consultation phase. It draws together feedback from various stakeholders along with a preliminary consideration of the issues raised.

The Government will now consider all these matters in deciding on possible changes to the LVC framework.



¹ Information and documents related to the review including the scope, consultation paper and stakeholders submissions are available on <https://yoursay.act.gov.au/lease-variation-charge>

CONSULTATION FEEDBACK

The consultation paper asked stakeholders to consider a number of broad questions that aligned with the scope of this review. Stakeholders were also requested to include detailed evidence including industry data or project costings in support of the views and arguments provided. The feedback received from stakeholders is discussed here in the context of these questions.

Impact on development activity

> Stakeholders are invited to provide financial data and any other evidence demonstrating the relationship between LVC and project viability. If requested, any such data or evidence provided will be kept confidential.

Industry stakeholders generally expressed the view that LVC adversely impacts the viability of redevelopment in the ACT.

The Housing Industry Association indicated a fundamental opposition to charges on development. The Master Builders Association stated that LVC is a tax on development which affects the cost of building and therefore housing affordability, and that the level of LVC should be carefully considered.

DNA Architects considered that the impact of LVC can be variable as returns vary between different types of projects. Their submission stated that projects with high returns, which tend to be of larger scale and limited in number in the ACT, can easily absorb the impact of LVC. This was not true for projects with marginal returns, suggesting that the LVC was reducing the pool of viable projects. Marginal projects that proceed, according to DNA Architects, do so by lifting the sales price and lowering build quality. According to the Property Council, the impact of LVC on the feasibility of projects was demonstrated by the lack of development applications across a number of suburbs.

The Government notes that overall development activity in the ACT has been strong in recent years and this is expected to continue with a significant number of projects in the pipeline. It does not appear to be lagging behind other jurisdictions which do not impose a similar charge to the LVC. To a large extent, development activity is driven by broader economic trends such as population and economic growth, the availability of credit to potential buyers, and other factors including availability of sites with redevelopment potential. The consultation paper noted the location of developments is influenced by their perceived attractiveness and other factors like proximity to employment centres and transport corridors. Given this, it is not surprising that redevelopment activity is not evenly distributed across suburbs, which will primarily be driven by the expected sales and profitability.

The review requested accompanying evidence to support the views expressed in submissions (for example quantitative data and financial costings), to help ascertain the extent that the LVC may affect the financial viability of development. Some stakeholders stated that this data was difficult to quantify and provide.

The consultation paper stated that the Government considers the LVC has a minimal impact on the financial viability of developments as it isolates the value attributable to government decisions on the use of land. The input received from the review did not provide substantive data or analysis which challenges this view. An examination of residential sales activity

involving redevelopment of existing blocks, combined with publicly available information about industry construction costs, also does not support the suggestion that the LVC systemically affects project viability.

Lease value and equity

In the 2017-18 Budget, the Government changed the LVC codified charge applying to lease variations which increase the number of allowable dwellings through unit titling on certain leases, with this moving from \$7,500 to \$30,000 per dwelling from 1 July 2017. This change was made to better reflect the increase in lease values associated with a lease variation for additional dwellings. It also provided for greater equity between different lease types that do not specify the number of dwellings, which are often located in established suburbs where land values tend to be higher in general.

> Stakeholders are invited to provide evidence and input about the impact, if any, of the change in this codified charge on development activity in established suburbs or property prices.

The Master Builders Association stated that this change was introduced without industry consultation and had caused market distortions while impacting on housing affordability. DNA Architects stated that though development is progressing, this charge is too high as it restricts the number of viable projects. The Property Council submission stated that the unexpected change eroded industry confidence.

In the absence of supporting evidence, it is difficult to assess these claims. However, the level of residential development and sales activity suggests that the change has not hindered development activity in established suburbs. The Government position remains that the increased codified charge is now better aligned with the value uplift associated with additional dwellings than the previous charge.

The Master Builders Association submission also stated that a rush of development activity was causing a workload impact on the directorate responsible for assessing development applications. There was a significant increase in development applications seeking to take advantage of the old charge before the new charge came into effect. However, while this did have an impact on assessment timeframes for a short period, as expected, this has not lead to ongoing pressure on the assessment process.²

> Stakeholders are invited to discuss how the change in this codified charge may be affecting decisions about the development of any particular dwelling type(s).

The Property Council submission stated that the LVC is at odds with the Government policy of increasing housing diversity, and also works against policies to encourage affordable housing. For example, it argued that the flat \$30,000 charge per unit title creates an incentive for larger

² Canberra is experiencing significant growth which has meant a large increase in the number and complexity of proposed developments. Compared to single dwelling development applications, these require greater scrutiny, involve more amendments and attract a greater level of public interest. While this is not related to the LVC, it is acknowledged these factors are putting some pressure on the capacity of the assessment process. This issue is being considered separately by the Government, outside of this LVC specific review.

dwellings. On a per square metre basis, a small one bedroom property attracts a much higher LVC charge than a larger dwelling³.

Our observation is that ultimately a project proponent will choose the most optimal dwelling mix available to them taking into account zoning requirements, construction costs and market demand. While the sales value of individual dwellings can be significantly higher in lower density developments, high density developments tend to yield greater total sales revenue and can achieve much more profit if construction costs do not increase at the same rate.

The Property Council also noted that schedule 2 codified charges decrease as the number of allowed dwellings within a lease increases. Smaller dwellings, such as one bedroom apartments, are more likely to be part of higher density developments. Analysis of the range of developments that required a lease variation indicates that a project proponent will weigh up the costs and benefits of high versus low density development taking into account the additional cost per dwelling (which includes the LVC) and the likely revenue outcome.

The Government will consider if any changes are required to this codified charge as part of the 2019-20 Budget process.

Simplicity and consistency

- > **Stakeholders are invited to provide input on ways that existing documentation (including LVC schedules, statutory instruments and information on ACT Government websites) can be improved to better assist understanding of LVC charges associated with a proposed development.**
- > **Stakeholders are invited to provide ideas and suggestions on ways the design of the LVC could be rationalised and streamlined to minimise complexity.**
- > **Stakeholders are invited to provide feedback on how the current system could be improved to assist leaseholders, project proponents and builders to better understand their estimated LVC liabilities when considering development proposals.**

Stakeholder input related to these questions is discussed collectively below.

The ACT Law Society submitted that the LVC framework was too complex and could only be understood by going through various amendments and determinations. The Australian Property Institute also said that the current system was overly complicated and not transparent. It stated that project proponents from outside the ACT find the LVC framework hard to understand, and suggested that the framework be improved to make it simple, straightforward and transparent. Similarly, the Master Builders Association submission suggested a greater emphasis on simplicity and transparency.

The Government shares stakeholders' views that the LVC framework should be as simple and transparent as possible, while still delivering on its objectives. The Government is looking at ways to improve the accessibility of information about the LVC, including on government

³ '[A] 50 m² apartment carries a \$600/m² LVC charge as opposed to a 300 m² apartment that carries a [\$100]/m² LVC charge. The net effect of the per unit charge, regardless of unit size, is the favouring (in economic terms) of larger, more expensive apartments over smaller more affordable apartments' (Page 19 of the submission).

websites. An online interface that helps users to understand their LVC liabilities and how they are calculated would also help with addressing the issue of underlying complexity of the legislation. This would provide an interface for accessing information contained in subordinate statutory instruments, for example, schedules that contain differing LVC charges according to location and the type of lease variation.

Stakeholder concerns also covered the LVC process and its administration. The ACT Law Society said the LVC results in the development application process becoming a two stage process, involving assessment of the development application followed by the LVC determination. It said this should occur concurrently. The Evri Group stated that even simple variations can take a long time, and tenants and financiers are unlikely to wait long in case of commercial property if a lease change is required. It was stated this has a detrimental impact on the commercial property market.

The Master Builders Association said the administrative cost to determine the LVC charge under the section 277 non-codified (V1-V2) approach was too high, requiring valuers, planning consultants and lawyers. Time delays associated with the LVC determination process further contribute to increased development costs. It stated that greater efficiency and improvement to the experiences of those interacting with the LVC is required.

The Government shares stakeholders' views that the development assessment and LVC determination processes should be as efficient as possible, and is now considering ways to achieve this, while ensuring that the desired policy outcomes are achieved and legislative requirements are met.

The Master Builders Association also suggested implementation of an online LVC calculator. As noted previously, the Government is considering how online presentation of information on the LVC can be improved. This includes consideration of an online calculator that helps project proponents understand and calculate their potential LVC liabilities.

The Housing Industry Association noted that the determination of project feasibility is a complex process. It said the LVC should balance certainty, avoiding unnecessary complexities and ensuring it is known (calculable/determined) at an appropriate time in the overall approvals process. An absence of these factors leads to greater holding costs negatively impacting feasibility. It suggested a lower LVC to address this issue and balance the impact of these factors.

The Government notes stakeholder concerns that the non-codified process can add time to project commencement. The Government will consider potential options to streamline the administration of the development approval and LVC determination processes and make it more efficient, noting that the complexity of development proposals can contribute significantly to processing times. Development proposals are often iterative in nature due to changes made by project proponents requiring reassessments, in addition to mandated legislative timeframes for consultation and assessment. A concurrent process may also not always be possible. For example, often the LVC determination can only be initiated after the development application has been finalised and the specifics of the proposed variation are set and become known for assessment. It is not unusual for changes to be made to development applications right up until the date approval is granted.

> Stakeholder views are sought on whether the two methods of assessing LVC are appropriate for the purpose and the type of developments to which they are applied.

REVIEW OF THE LEASE VARIATION CHARGE

In relation to section 277 (V1-V2) – non-codified variations, the Master Builders Association said that the method of calculating value uplift lacks transparency and certainty, and this was a fundamental problem with the current system and process. Calculating LVC requires determining a before and after development approval value, and determining a charge based on the difference, after obtaining agreement from the ACT Government. This means that the amount of LVC cannot be calculated with certainty when project feasibility is being assessed.

The Australian Property Institute said it was often easier and cheaper to sell an old lease and purchase a new site since the LVC ignores improvements made to a site. It stated that most problems occur in valuing properties for which there is no market or comparable sales – and government and private valuers have been unable to reach agreement on a methodology. According to Evri Group, the valuation process emphasises comparable sales without considering other mitigating factors. The Property Council raised similar concerns.

On the other hand, some community stakeholders were concerned that the current valuation process was undervaluing the value uplift belonging to the community. The Griffith Narrabundah Community Association said the credibility of the LVC regime required realistic valuations, and that private valuers engaged by project proponents may be influenced by client preferences due to the prospect of repeat business. The Inner South Canberra Community Council stated land valuation and LVC methodologies must be transparent, and objections should be able to be lodged by the community in case of any undervaluation concerns.

The Government is looking at ways to improve publicly available information about how the before and after values are determined, to help ensure that all stakeholders are fully aware of how these values will be determined and reduce the amount and size of differences between private valuations and Government valuations.

> Stakeholders are invited to discuss whether extending codified charges to other types of development would be beneficial, and if so, what types of development could be subject to codified charges.

There was support for extending the application of codified charges, particularly for commercial lease variations. According to the Property Council, greater use of codified charges would provide more certainty for project proponents. It would also reduce the cost of valuation and assessment processes for both industry and the Government. The Australian Property Institute noted that the schedule applying to commercial variations (schedule 3) could be inefficient, complex and required an update, it also suggested extending the application of codified charges to mixed-use developments.

The Government is currently considering the feasibility of extending the application of codified charges for mixed-use and commercial developments, based on this input from stakeholders.

> Stakeholders are encouraged to identify other alternative approaches that could be considered.

The Property Council highlighted that the wording of leases can have a somewhat arbitrary and significant impact on the codified LVC payable. For example, under section 276E (schedule 1) codified charges, some proposed redevelopments, regardless of where they occur, are charged \$30,000 for each dwelling on the associated lease. At the same time, leases in some suburbs, including some with lower land values, could potentially be subject to much higher charges based on the wording of their lease under Schedule 2.

REVIEW OF THE LEASE VARIATION CHARGE

The Government is aware that inequities may occur where owners of higher priced properties are subject to lower or similar charges to owners of lower priced properties. This issue stems from the different way crown leases have been written over a long period of time, and the Government is now considering whether there are feasible options to address it.

> Stakeholders are invited to indicate whether there would be support for a move towards more aggregation even though the values may not be as precise.

The Australian Property Institute suggested that codified values should be updated on a regular basis and should be set on a district basis to relieve valuers of the burden of accurately capturing value uplift in each suburb. However, this was not supported by the Kingston Residents Barton Group on the basis that there can be significant variation within a district.

The consultation paper had noted that codified charges are relatively resource intensive to maintain to ensure that they continue to reflect movements in lease values across all suburbs over time. Different schedules apply to varying lease types, which means that current schedules are lengthy and detailed, as well as being linked to the Territory Plan. Feedback from industry stakeholders suggests that these schedules are not easy to use.

The paper also noted that while the review will look at options to simplify the schedules, aggregated values are less precise, as they can vary considerably from suburb to suburb according to proximity to services and perceived attractiveness. The variance of an aggregated value from the actual uplift could result in leaseholders in some suburbs benefitting at the expense of other leaseholders, potentially distorting long term development outcomes.

Noting the concerns above, the Government is considering whether a consolidated schedule of codified LVC charges would address some of the issues with the current system. This could potentially aid in simplification and understanding of these charges by project proponents, while also reducing the administrative burden associated with maintaining these values for each suburb across different zones and dwelling densities. The Government notes that these detailed schedules do not appear to be used frequently and as such may not be serving their intended purpose.

> Stakeholders are encouraged to identify other feasible alternative approaches.

Stakeholders suggested a number of different approaches to applying the LVC.

The Property Council suggested the LVC for residential development should be based on the gross floor area. This would mean that smaller dwellings would pay a lower charge and larger dwellings would pay a higher charge. Additional rights for higher use redevelopment could then be acquired by paying LVC on a square metre basis rather than a per dwelling basis. It is noted that this would involve a significant departure and modification of the current framework that would require substantial time and resources.

It would also not necessarily result in a lower LVC payable in total for a multi-unit development with the same floor area, as the value uplift may still be similar. As noted previously, it is ultimately a decision by the project proponent to decide the most optimal dwelling mix available to them taking into account zoning requirements, construction costs and market demand. Schedule 2 codified charges also decrease as the number of allowed dwellings within a lease increases. Smaller dwellings, such as one bedroom apartments, are more likely to be part of higher density developments.

REVIEW OF THE LEASE VARIATION CHARGE

We consider that on balance, the number of dwellings is a reasonable measure of value uplift noting that it is simple to understand and administer, and that the profitability of the development can often depend on the number of dwellings.

The Property Council also suggested that the Government engage the Australian Property Institute to review codified values and use it as a mediator to resolve disputes. The Government does not support this approach and has no plans to outsource this process to the private sector. Community stakeholders are also likely to have concerns with this approach.

Allowing project proponents to choose between applying codified charges or the valuation approach was another alternative approach submitted by the Property Council. It also suggested allowing lease holders to trade in lower order uses based on codified values. It is noted that the valuation approach is used in cases where variations are of uncommon nature and cannot be easily codified. Making these changes would increase the complexity of the framework and may also result in 'gaming' of the LVC payable.

The Australian Property Institute proposed that addition of uses to a crown lease should be based on a set fee of \$5,000 before any remissions. The Government does not support this as it is not based on the associated value uplift, and as such would transfer the financial benefit from the community to project proponents.

The Evri Group suggested abolishing the LVC and replacing it with an augmentation charge, noting the community already benefits from general rates revenue. One submission (name withheld on request) suggested that LVC should distinguish between developers and live-in residential owners. These options do not appear to promote equitable outcomes and would be difficult to implement.

Housing affordability

> Stakeholders are invited to supply evidence on the impact of the LVC on dwelling prices or dwelling supply.

The Housing Industry Association expressed a view that the LVC is an inflationary development tax that is passed on to buyers. The Master Builders Association stated that it was very concerned about the impact of LVC on housing affordability. While a number of industry stakeholders stated that the LVC impacts on housing affordability, there was no accompanying costing or quantitative evidence demonstrating how the LVC may directly impact prices or limit supply.

There is high level of construction activity going on in Canberra at this time, with a number of additional projects in the pipeline for future development. The Government considers that other market factors are the key drivers of housing prices and supply, such as the amount that a buyer is willing to pay for a particular dwelling and the availability of credit finance offered by banks to potential purchasers. We also note that many developments are not required to pay LVC because they do not require a lease variation to proceed, so this alone would be unlikely to have an impact across the housing market.

If the LVC was affecting prices or supply, there should be a difference in the sale prices of developments that have paid LVC, compared to those that were not subject to the same charge. This is not readily apparent from dwelling sales data.

In contrast to industry based stakeholders, community based stakeholders expressed support for continuation of existing LVC policy. The Inner South Canberra Community Council stated that it is fair and reasonable for developers to be taxed on the changes in the value of their land resulting from a change of use for that land. The Kingston Barton Residents Group said that the financial benefit from a change of use of land should not be transferred to developers. The Griffith Narrabundah Community association supported the 75 per cent charge. This stakeholder input tends to support the Government position that the LVC only partly captures the value uplift that would have otherwise been transferred to the developers and does not impact on dwelling prices.

> Stakeholders are invited to provide input and evidence on the relationship between LVC and the development of affordable medium density housing.

Industry stakeholders have expressed the view that the LVC reduces housing diversity, for example, reducing the incentive to develop townhouses.

The consultation paper noted that the decision to build a larger number of apartments over a smaller number of townhouses will primarily be driven by market conditions. This can be observed in townhouses currently available for sale in the ACT. While there are a number of lower priced townhouses for sale in newer suburbs and greenfield developments (with lower lease values), townhouses in established suburbs attract a significantly higher price.

The Kingston Barton Residents Group recognised this and stated while there is a preference for townhouses over apartments, the high value of land in the inner south of Canberra means that project proponents will prefer to build apartments to achieve a greater return. It also commented that the preservation of diversity of housing in this area was a result of heritage protection, which otherwise would have consisted of higher density housing consisting of mainly apartments. The submission also expressed the view that a lower LVC to provide an incentive for affordable townhouses may be appropriate in some instances.

There was limited concrete evidence in submissions to support the claim that the LVC is a disincentive for medium density housing and limits housing diversity. It is also considered unlikely that the supply of affordable townhouses would significantly increase in inner city areas, given current land values even if such an incentive was introduced. It is likely that the benefit of such an incentive would be transferred to project proponents where development of townhouses would have occurred regardless of such an incentive.

> Stakeholders are encouraged to provide ideas and input on how an LVC policy could be designed to incentivise delivery of affordable housing within developments on relevant lease types.

There was support from industry stakeholders for LVC based remissions or waivers to incentivise project proponents to offer affordable housing. Only one community stakeholder (the ACT Council of Social Service) supported using this measure, and proposed it be limited to developments offering a high minimum mandated level of affordable housing, targeted at households using the 30:40 rule.⁴ This emphasis aligns with the new ACT Housing Strategy

⁴ The 30:40 indicator identifies households as being in housing affordability stress when the household has an income level in the bottom 40 per cent of Australia's income distribution and is paying more than 30 per cent of its income in housing costs. Affordable housing in this context would then mean a dwelling price well below the median, similar to the thresholds under the Government's Affordable Home Purchase program (for e.g. currently a maximum of \$381,000 for dwellings between 80 and 105 m²).

released in October 2018, which focuses on households that fall in the lowest 40 per cent of incomes. The Government will undertake further investigations into the effectiveness of such a measure.

The 2018 ACT Housing Strategy aims to deliver 15 per cent of all new dwellings as affordable, community or public housing. Greenfield developments have had affordable housing targets since 2007, but the Government now requires housing targets to be set for all land releases, including infill development. The requirement aligns with the ACT's refreshed Planning Strategy released in December 2018 which focuses on infill development in appropriate locations to meet demand and changing preferences for housing in the future. An appropriately targeted remission may help support these goals.

However, a broad remission could mean that benefits will not be passed on to the target cohorts, and instead flow through to project proponents and/or higher income purchasers, without a significant long term increase in ownership by low income households. There does not appear to be a strong case for providing remissions to increase the number of affordable dwellings unless they are carefully targeted.

There is a stronger case to provide incentives for the development of properties, sold to a community housing provider for the purpose of providing affordable rental, if there is agreement to sell at below market prices. Increasing the supply of affordable rental properties is also a key focus of the ACT Housing Strategy. Other options to encourage the supply of affordable housing, such as inclusionary zoning, are also being investigated under the ACT Housing Strategy.

Alignment with planning policies

> Stakeholders are invited to provide input on how the LVC framework could be better aligned with planning requirements for relevant zones.

The Property Council took the view that the LVC was working against the planning outcomes intended for RZ2 zones for greater density. According to the Property Council, planning requirements combined with LVC effectively provide an incentive for the development of single dwellings over multi-unit dwellings in these zones through a combination of LVC and plot ratio requirements.⁵ The Council noted the preference for detached dwellings, when combined with LVC and planning requirements, will continue to work against the outcome of improved density.

The Property Council also noted the application of LVC can sometimes be inconsistent with the intended planning outcome as the LVC payable may depend somewhat arbitrarily on the wording of the lease. This issue is being considered by the Government and is discussed separately under the 'Simplicity and consistency' section of this document.

⁵ The Territory Plan allows a single dwelling build in RZ2 to be built to 50% plot ratio. A typical 'one house behind the other' RZ2 dual occupancy type development is limited to 35% of which the 'rear' dwelling is limited to 17.5% of the maximum of the total plot ratio. RZ2 planning policy therefore encourages large single dwelling builds. LVC acts as a further impediment with a minimum \$60,000 charge for dual occupancy development of a lower GFA. Effectively, an LVC of \$60,000 is being sought to achieve a reduced development outcome, from 50% down to 35%, so the potential for RZ2 to meet its own zone objectives is being sidelined by the imposition of LVC (extract from page 16 of the Property Council submission).

The Kingston Barton Residents Group said lease changes and the LVC framework should be aligned with existing planning requirements, particularly in relation to leases that were previously gifted for community purposes to clubs, but were now being redeveloped for profit after paying LVC.

This was a common theme across a number of submissions from community based stakeholders. The Inner South Canberra Community Council said there should be a test of public benefit when a lease that has previously been community oriented in nature is redeveloped for a different purpose. The Kingston Barton Residents Group said these changes were a loss to the community as the need for community facilities was growing rather than decreasing as population grows. These stakeholders were also concerned about waivers granted to clubs who were redeveloping the land associated with leases granted initially for community purposes.

Providing an incentive for better outcomes

> Stakeholders are invited to provide feedback on how effective LVC remissions have been in delivering intended policy outcomes in the residential sector.

Feedback from stakeholders was mixed on this issue. Industry based stakeholders were supportive of the use of remissions. The Property Council took the view that remissions provide Government the flexibility to achieve different policy outcomes and their continuation was critical. The Council noted that previous remissions targeted at childcare and providing an economic stimulus⁶ had generated significant increases in commercial activity. The submission also noted that remissions to promote energy efficiency contribute to development of better building stock.

In contrast, the Kingston Barton Residents Group was sceptical of the efficacy of remissions. They considered it was hard to ensure compliance and measure whether the intended benefits were being achieved, for example in relation to claimed energy efficiency and environmental benefits. The Group took the view that there was a risk of the financial benefit of the remissions being captured by developers at the expense of the community, without the achievement of the intended outcome.

This is some validity to this concern. Recognising this and other limitations of the remission model, the consultation paper stated that remissions should not be considered a long term substitute where a direct policy, such as a specifically designed regulation, would be more appropriate and transparent in generating the desired development outcomes.

It is also worth considering whether some outcomes would have occurred regardless of LVC remissions. For example, a number of residential developments that were not eligible to access the environmental sustainability remission were still built to similar or higher energy efficiency standards. Similarly, while strong building activity coincided with the economic stimulus remission, the majority of these residential developments were not subject to LVC and therefore did not access this incentive.

⁶ The economic stimulus remission was introduced to lessen the impact of adverse Federal Government policies on the ACT. It was designed to generate building activity by incentivising developments able to commence and support the economy within the stimulus timeframe. There was significant development activity during the period remission was in effect from 2014 to 2018.

This is an important consideration as remissions can come at a significant cost to the community in revenue foregone. The cost of the economic stimulus remission alone is estimated to have been over \$25 million between 2014 and 2018.

An appropriately designed remission would be set at a level which provides a commercially viable incentive but also maximises the value from the community's perspective. However, often the exact policy settings may only be apparent in hindsight after a remission has been in place for some time. The Housing Industry Association noted that provision should be included to ensure an easy adjustment to remission values, if required, and supported the use of remissions to generate better outcomes.

The Government will consider the effectiveness of current remissions and whether these are the best way to deliver policy outcomes in the future.

> Stakeholders may wish to detail outcomes or conditions under which other specific purpose remissions may be appropriate, and/or propose other remissions the Government could consider for generating improved outcomes in the residential building sector⁷.

The consultation paper stated that the Government is open to updating or streamlining remissions to ensure these strike the right balance between community outcomes, transparency and simplicity in LVC assessment.

The Property Council suggested consideration of a remission targeted at providing an incentive for aged accommodation. The Kingston Barton Residents Group expressed scepticism about such an incentive unless it was accompanied by sureties (or other appropriate safeguards) provided by project proponents. It stated that residents in Barton have been previously disappointed when proponents used claims of providing aged accommodation to secure support for development proposals. However, the people living in these buildings after completion were not aged residents.

The Property Council also suggested consideration of other remissions to promote sustainability, urban renewal and offsite works that provide public benefits. However, this was not accompanied by evidence to indicate that LVC was acting as a barrier to these outcomes and that introducing a financial incentive would significantly alter current outcomes as the LVC does not apply to a majority of residential developments. Importantly, there are other broader government policies in place that are designed to help with these outcomes, and a remission may not be the best policy tool to achieve them. For example, improving the sustainability of future residential stock is likely better addressed via a Territory-wide building standard, rather than a remission.

In relation to the suggestion of a remission for offsite works, it is important to note that under the previous Change of Use Charge (which was replaced by LVC), offsets were provided for works that contributed to the public realm. The process often meant that most project proponents did not pay the value uplift associated with granting of additional development rights as typically all of the charge was offset against these works. The process was not transparent and often the initiatives primarily benefitted the development, rather than the broader Canberra community. Ensuring transparency was an important criterion in the design

⁷ Stakeholder input about remissions and incentives relating to housing affordability is discussed under the Housing Affordability section of this document.

of the current LVC, which is based only on uplift from the change in lease conditions. LVC remissions are not intended as a mechanism to fund additional works by project proponents.

The ACT Council of Social Services further suggested remissions to encourage social sustainability and urban renewal outcomes.

Stakeholders also provided input on how to improve existing and future remissions. The ACT Law Society noted some administrative inconsistencies over the process associated with accessing the Environmental Sustainability remission. The Government previously made some changes to strengthen compliance with this scheme and improve the LVC framework.⁸ According to the Law Society, these may not be working as intended. The Government is currently examining these issues.

The Property Council suggested extending the existing service station remediation remission to all contaminated land⁹ to encourage urban renewal. This was considered unduly broad and could potentially provide a disincentive for remedying contamination issues by lease owners, while also working against regulatory requirements to minimise contamination.

The Housing Industry Association stated that remissions should be accompanied by clear and transparent formulas developed in consultation with industry to reduce any difference in understanding between regulators and project proponents, as this can have costly implications for developments. The ACT Law Society suggested that the remissions should be streamlined and become less technical.

The Government is considering the costs and benefits of remissions and will determine if any changes to existing remissions, or new remissions, are warranted in the context of the 2019-20 Budget.

⁸ In 2018, the Government started allowing project proponents to defer the payment of LVC for up to four years or until a certificate of occupancy is issued. This is to help proponents align LVC payments with expected project cash flows. Access to the environmental sustainability remission was linked to this scheme.

⁹ A remission of 100 per cent is offered where the lease variation is associated with a disused service station site. The remission is offered if the site is remediated so that it can be used for other purposes.

NEXT STEPS

The Government would like to thank the stakeholders who provided input and made submissions during the consultation phase of this review. There are a range of issues that have been raised which the Government will now consider further. These include possible changes to the codified schedules, and whether a codified system could be applied to mixed-use developments. We will consider the existing remissions and whether any changes or additions to this are warranted. The Government will also consider improvements to make the LVC framework more equitable and less complex, as well as making it easier to use and administer.

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