



Dear Chris Steel MLA,

Canberra Granny Flat Builders (CGFB) welcomes the ACT Government's Missing Middle housing reforms, including the 50% reduction in eligible Lease Variation Charges (LVCs) under DI2026-143.

Our business assists Canberra homeowners with the design and planning approval of secondary residences, dual occupancies and block subdivisions. Most of our clients are owner-occupiers seeking to retain their existing home while constructing an additional dwelling.

However, considerable uncertainty remains about how LVCs apply to different Crown leases and development pathways. This makes it difficult for homeowners to assess whether a project is financially viable before committing to design and approval costs.

Depending on the wording of a Crown lease and the proposed development pathway, the potential LVC for adding a second dwelling and obtaining separate titles can range from \$0 to more than \$190,000, even for otherwise comparable blocks.

Our review of more than 350 Crown leases held for our clients indicates that:

- Approximately 70–76% of RZ1 and RZ2 leases expressly restrict the land to one dwelling.
- Approximately 22–27% permit residential use without expressly limiting the number of dwellings.
- The remaining leases contain various historical provisions permitting subsidiary flats or additional dwellings under certain conditions.

These differences can have substantial financial consequences for homeowners seeking to undertake essentially the same development.

While we have received helpful general advice from the Territory Planning Authority's leasing team, obtaining definitive site-specific advice generally requires a separate paid application for each property. We have also encountered recent decisions in which older lease provisions have been interpreted differently from established industry practice.

We therefore seek written clarification on five key matters concerning the application of DI2026-142 and DI2026-143.

1. Secondary residences and subsequent conversion to dual occupancy

Secondary residences are a core part of our business, and we seek clarification on how they are treated for LVC purposes.

Where a Crown lease restricts the land to a single dwelling, it is unclear whether constructing a secondary residence of up to 90 m² requires a lease variation at all.

Although a secondary residence is treated differently from multi-unit housing under the Territory Plan, the Territory Plan Dictionary identifies it as a second dwelling.

Could the Government confirm:

- Whether a secondary residence requires a Crown lease variation where the existing lease permits only one dwelling.
- If a variation is required, whether it is non-chargeable or attracts an LVC under Schedule 1, Schedule 2 or another provision of DI2026-142.
- Whether the 50% reduction under DI2026-143 is available if a charge applies.
- Where an approved secondary residence is subsequently converted to a second dwelling forming part of a dual occupancy or multi-unit housing development, whether a further lease variation is required, which charge applies, and whether the 50% reduction is available.
- In particular, we seek confirmation of whether constructing a secondary residence first and converting it to a dual occupancy later results in a different total LVC from obtaining approval for a dual occupancy from the outset.

This distinction is important for homeowners considering staged development.

2. Subdivision and unit titling

Many homeowners wish to construct a second dwelling and eventually obtain separate titles.

We understand that subdividing a block into two residential blocks may attract the \$7,500 charge under Schedule 1, Item 6 of DI2026-142.

However, it remains unclear whether this charge is additional to any Schedule 2 charge for increasing dwelling numbers.

Section 8(3) of DI2026-142 appears particularly relevant, as it provides for Schedule 1 to apply where both Schedule 1 and Schedule 2 apply to the same lease variation.

We therefore seek confirmation of whether the \$7,500 subdivision charge and the Schedule 2 dwelling-increase charge are cumulative, or whether Schedule 1 takes precedence.

A further uncertainty arises from the wording of Schedule 2, which calculates the charge by reference to the "total approved number of dwellings for a lease".

For example, where a single-dwelling block is subdivided into two blocks, each permitting one dwelling:

- Does Schedule 2 apply at all, given that neither resulting lease permits more than one dwelling?
- If Schedule 2 applies, is the charge calculated using the column for one dwelling or two dwellings?
- Is the increase assessed against the original Crown lease or each resulting Crown lease?

This distinction can substantially change the charge payable and is one of the principal sources of uncertainty in our feasibility assessments.

We also seek clarification on whether the total LVC differs depending on the development pathway:

- Direct subdivision: An owner subdivides an existing block into two blocks, each containing or permitting one dwelling.
- Staged subdivision: An owner first obtains approval for two dwellings on one lease and subsequently subdivides.
- Unit titling: An owner constructs two dwellings on one lease and subsequently registers a units plan.

Could the Government confirm whether these pathways attract different LVCs, whether a previously paid dwelling-increase charge is recognised in subsequent applications, and whether unit titling itself attracts an additional charge?

We would also appreciate confirmation that demolishing the existing dwelling before subdivision does not, by itself, alter the applicable LVC.

3. Older Crown leases without dwelling-number restrictions

Our review indicates that approximately one-quarter of the RZ1 and RZ2 leases examined do not expressly limit the number of dwellings permitted on the land.

These leases commonly state that the land is to be used for "residential purposes only".

Our current understanding, consistent with general advice received from the Authority's leasing team on 8 October 2026, is that:

- Constructing a second dwelling may not require a lease variation where the existing lease already permits the proposed residential use.
- Subdivision may attract only the \$7,500 charge under Schedule 1, Item 6.
- A historical, already-satisfied covenant requiring the construction of "one building only" does not necessarily impose an ongoing restriction on dwelling numbers.

Could the Government confirm whether this interpretation is correct?

Importantly, where an unrestricted residential lease is subdivided or unit titled, are the resulting Crown leases required to specify a maximum number of dwellings?

If so, we seek clarification on whether this triggers Schedule 1, Item 1 (\$49,000 per dwelling), whether the charge applies to every dwelling or only additional dwellings, and whether the 50% reduction is available.

We would also appreciate confirmation of whether the resulting leases can retain the original unrestricted residential-purpose wording without triggering this additional charge.

4. Crown leases that already permit a second dwelling

Some Crown leases expressly permit a second dwelling where allowed by the Territory Plan. Others permit multi-unit housing comprising no more than two dwellings.

We understand that where a lease already permits two dwellings, constructing the second dwelling should not ordinarily trigger a further dwelling-increase LVC.

However, we seek confirmation of whether these lease provisions also permit subsequent subdivision or unit titling without an additional variation charge, apart from any applicable subdivision charge.

We also request clarification regarding older leases permitting an attached subsidiary flat, particularly where the owner proposes a detached dwelling instead.

In recent cases, the Authority has required the subsidiary-flat provision to be removed before the proposed development could proceed.

Could the Government confirm whether this variation attracts a charge under Schedule 1, Schedule 2 or another provision, whether it can be incorporated into the same DA, and whether the 50% reduction is available?

5. Eligibility for the 50% reduction and transitional arrangements

Finally, we seek clarification on the practical operation of the 50% LVC reduction under DI2026-143.

Clause 4 requires an approved deferral through the Commissioner for Revenue and an occupancy certificate for each additional dwelling by 31 December 2030.

In particular, could the Government confirm:

- Deferral requirement: Does a nominal deferral satisfy the eligibility requirement if the homeowner pays most of the LVC upfront and defers only a small remaining balance? Alternatively, must the entire eligible liability be deferred?
- Occupancy deadline: If DA approval and the required deferral are obtained, but an occupancy certificate for an additional dwelling is not issued by 31 December 2030, is the 50% reduction forfeited? If so, how and when is the full liability recovered?
- Subdivision charge: Where the same development both adds a dwelling and subdivides the land, does the 50% reduction apply to the \$7,500 subdivision charge under Schedule 1, Item 6, or only to an eligible dwelling-increase charge?

Transitional arrangements: Section 5 of DI2026-142 identifies the applicable development application period. Could the Authority confirm that a DA submitted between 1 July 2026 and 30 June 2027 remains subject to DI2026-142 where the application is approved after 1 July 2027?

Subsequent development: Where a homeowner receives the reduction for an additional dwelling and subsequently subdivides or unit titles the property, does the original reduction remain valid?

These matters are particularly important because homeowners must understand their financial obligations before committing to construction, while completion dates may be affected by circumstances outside their control.

Request for published guidance

We appreciate that individual Crown leases must be considered according to their specific terms. Nevertheless, the issues outlined above arise repeatedly across Canberra and concern common lease provisions and development pathways. We respectfully request that the Government consider publishing clear LVC guidance, including worked examples, addressing the principal Crown lease types and the charges applicable to secondary residences, dual occupancies, subdivision and unit titling.

For many homeowners, the LVC is the deciding factor in whether an additional dwelling proceeds at all. A consistent and transparent interpretation is essential to helping the Missing Middle reforms achieve their intended outcomes. We would welcome the opportunity to meet with your office or representatives of the Territory Planning Authority to discuss these matters.

Clear, published guidance would save homeowners, industry professionals and the Authority considerable time, while giving more Canberrans the confidence to pursue additional housing on their properties.

Thank you for your consideration. We look forward to your response.

Kind regards,

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