Legislative Assembly for the
Australian Capital Territory
Select Committee on the Fiscal
Sustainability of the ACT

Submission Cover Sheet

Inquiry into the Fiscal Sustainability of the ACT

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Submission to the Select Committee on the Fiscal Sustainability of the ACT
Inquiry into the Fiscal Sustainability of the ACT

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1. Purpose of this submission

1.1 This submission addresses the fiscal sustainability implications of the Lease Variation Charge (LVC) where an approved development is subsequently rendered unfeasible by the LVC assessment.

1.2 The point is straightforward. Where the Territory approves development through the planning system and then applies an LVC outcome that prevents delivery, the ACT risks a net negative fiscal result. The Territory forgoes not only the LVC itself but also the broader revenue and economic activity that would have flowed from construction and completion.

1.3 This is not an argument against value capture. It is an argument for value capture settings and processes that maximise realised revenue and delivery, rather than theoretical assessments that lead to no project and therefore no revenue.

2. Where the problem arises: non-codified LVC assessments (V1 and V2)

2.1 The feasibility shock described in this submission is primarily a feature of V1 and V2 LVC assessments, meaning those assessments that are not codified or prescribed in a way that provides early certainty and predictability. This is compounded by an approach of assessing V1 and V2 as a theoretical amount, rather than genuine uplift based on a willing seller and willing buyer model.

2.2 In practical terms, V1 and V2 are the assessments where the proponent is exposed to a materially uncertain outcome until too late in the process. The charge is not known with sufficient reliability at the point the proponent is committing capital, securing equity and debt, and advancing design, consultants, and approvals.

2.3 This is the critical fiscal problem. A development can be progressed through planning and approved, including through a DA process, yet once the V1 or V2 assessment lands, the project can be pushed outside financeable parameters. At that point, the only available response is delay, redesign, appeal, or abandonment.

2.4 Codified approaches are different. Where a charge is prescribed and can be modelled early, proponents can price it, financiers can underwrite it, and Government can rely on delivery to generate both the charge and the broader revenue base. The fiscal harm described in this submission is concentrated where the assessment is non-codified and arrives as a late-stage and potentially project-killing impost.

3. The fiscal sequence: approval first, feasibility later

3.1 The Territory's planning system is intended to produce outcomes. Those outcomes include housing, infrastructure, amenity, employment, and economic activity.

3.2 A common sequence is that a proponent invests heavily to navigate planning policy, community engagement, design, and approvals, and obtains a DA or equivalent Government approval pathway. The project is then met with an LVC outcome that may be assessed late and may be materially uncertain until issued. Typically this is a 18 month to 2 year journey, perhaps longer.

3.3 If the assessed LVC makes the project unfeasible, the result is not a higher contribution to Government. The result is frequently no development and therefore no contribution at all.

4. What the ACT loses when an approved project does not proceed

4.1 When an approved development stalls or collapses due to an unfeasible LVC assessment, the Territory loses the development itself. That is the immediate loss of housing supply and the associated community benefit embedded in the approval.

4.2 The Territory also loses the LVC that it sought to collect. A charge that prevents delivery is a charge that is not realised. From a fiscal sustainability perspective, realised revenue is what matters.

4.3 The Territory then loses a wider set of revenue streams and economic activity that follow delivery.

4.4 These include, at minimum, the following.

4.5 Construction activity. When construction does not commence, the Territory loses jobs, contracting, and local supply-chain spending, including professional services, trades, materials, and logistics. This is not abstract. It is a reduction in local economic activity that directly affects the Territory's economic base. This has the knock on effect on commercial and industrial property rentals and rates as trades fold, the rent and rates are lost.

4.6 Transaction and development-related receipts. Completion triggers a range of payments and charges associated with building approvals, inspections, compliance activities, and other statutory processes. If delivery does not occur, these do not occur.

4.7 Stamp duty and end-sale activity. Where projects deliver dwellings or commercial space that are transacted, the ACT receives conveyance duty on those transactions. If the project does not proceed, this revenue is foregone.

4.8 Ongoing revenue base. New dwellings and commercial space increase the rates base over time. Where applicable, land tax and other recurring revenue sources are influenced by the existence and use of completed property. A stalled project is a stalled revenue base.

4.9 Secondary economic activity. Residents and workers increase local spending and support local businesses. This strengthens the broader economy that underpins Government's capacity to fund services over time.

4.10 There is also a credibility and pipeline effect. Where the system repeatedly produces late-stage, non-codified assessments that undermine feasibility, it discourages investment and reduces the forward pipeline of development. That is a long-run fiscal risk because fewer projects means fewer opportunities for value capture and fewer additions to the Territory's ongoing revenue base.

5. Why this matters to fiscal sustainability

5.1 Fiscal sustainability is not served by maximising an assessed figure if the practical outcome is zero delivery and therefore zero revenue.

5.2 The fiscally rational objective is to maximise realised revenue over time. That requires settings that allow projects to proceed while securing an appropriate contribution.

5.3 A feasible charge that enables delivery produces the LVC and it produces the wider revenue stack that follows construction and completion. An unfeasible charge produces delay, disputation, and often no project, meaning no LVC and no wider revenue.

6. Practical reforms to improve realised revenue and delivery

6.1 The Committee should consider reforms that reduce the frequency of feasibility-killing outcomes in V1 and V2 assessments and improve the predictability and timing of LVC certainty.

6.2 Earlier certainty. The Territory should provide proponents with materially reliable LVC parameters early enough that projects can be financed and priced before large sunk costs are incurred.

6.3 Feasibility guardrails. The system should include an explicit mechanism to prevent LVC outcomes that render an approved project unfinanceable, while still protecting the value-capture objective.

6.4 Payment pathways that protect revenue and support delivery. Where appropriate, staged payment or milestone-linked payment mechanisms can preserve Government revenue while avoiding a single upfront impost that collapses feasibility.

6.5 Transparency and timely resolution. Clear methodology and timely review processes reduce delay and administrative cost. Delay is itself a fiscal loss because it suppresses delivery and pushes revenue further into the future.

7. Dairy Road as a clear example

7.1 Dairy Road is a clear, contemporary example of the fiscal sustainability risk created when Government pursues an LVC outcome at a level that is not deliverable.

7.2 The LVC amount which is being sought by the Territory for Dairy Road being $101.5 million will result in the Territory collecting no revenue. The ACT will lose construction activity and the associated employment. The Territory will forgo building and compliance revenues, end-sale transaction revenues such as stamp duty, and the compounding effect of an expanded rates base, let alone a transformative development for Canberra.

8. Closing

8.1 The LVC can be an appropriate mechanism to share genuine value uplift where Government permission enables development. The system succeeds only when it supports delivery and generates realised revenue.

8.2 The Committee’s task is fiscal sustainability. On that measure, the key test is whether the LVC system reliably converts approvals into completed development and completed development into revenue. Where V1 and V2 non-codified assessments instead convert approvals into delay and non-delivery, the ACT suffers a material fiscal and community loss.

8.3 I welcome the opportunity to provide further detail at the hearings on 3 and 5 March.

[redacted]

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