



Legislative Assembly for the
Australian Capital Territory

Standing Committee on Environment
and Planning

Submission Cover Sheet

Inquiry into Planning (Missing Middle Housing) Amendment Bill 2026

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Inner South Canberra Community Council

To: **Standing Committee on Environment and Planning, ACT Legislative Assembly**
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PLANNING (MISSING MIDDLE HOUSING) AMENDMENT BILL 2026

This is a submission by the Inner South Canberra Community Council (ISCCC) to the Committee's Inquiry into this bill. The ISCCC thanks the Committee for this opportunity.

We note that, according to the Explanatory Statement with the bill: *"Imbued in the provisions of the (Planning) Act, are the following key principles: 1. Easy to Use; 2. Certainty; 3. Flexibility; 4. Transparency; 5. Outcomes-focussed. The...amendments are intended to better realise these key principles, principally 1,2 and 5 through **simplified or otherwise expedited processes** relating to subdivisions, secondary residences and certain categories of lease variations."*

- We contend that the bill, with its 49 numbered paragraphs covering 17 pages and a new Division with four large and complex sections about "exempt development declarations", does not represent *simplified or otherwise expedited processes*.

The Explanatory Statement further says: *"this bill amends the Act to revise the definition of subdivision development proposal to exclude smaller scale subdivisions from being designated as significant development and the requirements thereof."*

We can find nothing in the bill referring to "smaller scale subdivisions". The new section 42A continues to define any subdivision (requiring a **subdivision design application** under section 43 of the Act) as including to "create or consolidate blocks" and "create or remove roads". Subsection 43(3)(b) of the Act, which exempts "a development proposal that is limited to changing a block boundary or subdividing land under the *Unit Titles Act 2001*", is to be deleted.

- Therefore, under the bill, changing a block boundary or subdividing land under the *Unit Titles Act 2001* would require a **subdivision design application**, and be classified as **significant development**, surely the opposite of the bill's intention.

There is no change to Section 14(1) of the Act, "**Meaning of development**", including: (e) subdividing or consolidating the land; (f) varying a lease relating to the land", or to Section 94 of the Act, "**Meaning of significant development**", including "a **subdivision design application** under section 43".

There is one addition to section "**145 Meaning of exempt development**" with a new subsection "(ia) section 149C (Exempt development declarations for **lease variations**)".

Under the existing section “**151 Application for exemption assessment**

(1) A person may apply to a works assessor or building surveyor (the **exemption assessor**) for an assessment of whether a development is an exempt development (an **exemption assessment**).” The bill however proposes a new subsection 151(1A) saying: “Subsection (1) does not apply to a variation of a nominal rent lease to which [new] division 7.2.1A ...applies.”

A substantial new 'division' to the Act is proposed: '**7.2.1A Variations of nominal rent leases - exempt development**', creating an entirely new class of application, an “**Application for exempt development declaration for lease variation**”.

The proposed new section '149A' lists certain types of lease variations, ie. stating or changing the maximum number of dwellings on a lease, authorising a secondary residence, or relating to an easement. It does not include a variation to change a block boundary or subdivide land under the *Unit Titles Act 2001*, so an application for an exempt development declaration for such lease variations would not be available.

- We are concerned that new section 149A would allow a proponent to nominate **any** maximum number of dwellings on a lease. Stating or changing the maximum number of dwellings on a lease, which must be related to the physical development of the block and its surroundings, is surely much more 'significant' than authorising a secondary residence, or relating to an easement, and should not be able to be regarded as “exempt development”.

The new section '149B' says "(1) A proponent of a lease variation may apply to the territory planning authority for a declaration that the variation is an exempt development. '149C' lists several points on which the authority must be satisfied before making a declaration. The most problematic of these is that the lease variation "(b) **is suitable in the context of the land and the surrounding area...**"

- How is this to be assessed? Proper context analysis is a professional and time-consuming job, not just a box to be ticked without any real assessment. The new section '149C' only gives the territory planning authority 10 working days to decide whether or not to make a 'declaration', so they're not going to be doing any proper context analysis, or able to check what a development proponent says.
- Even if it becomes possible to vary a lease to change the number of dwellings, by obtaining an 'exempt development declaration', what has been achieved? In order to activate the lease variation a development application will still be required.
- **The ISCCC submits that this bill does not meet its stated intentions and this Inquiry should recommend that it not proceed.**