LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ENVIRONMENT AND PLANNING

(Reference: Inquiry into Planning (Missing Middle Housing) Amendment Bill 2026)

Members:

MS J CLAY (Chair)
MS F CARRICK (Deputy Chair)
MR P CAIN
MS C TOUGH

PROOF TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 19 MAY 2026

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Acting secretary to the committee:
Ms N Straker (Ph: 620 59902)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

WITNESSES

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Amended 20 May 2013

The committee met at 11.10 am

CAMPBELL, MR RUSS, Under Treasurer, Treasury, Chief Minister, Treasury and Economic Development Directorate
PIRIE, MR MITCH, Executive Group Manager, Economic and Financial Group, Treasury, Chief Minister, Treasury and Economic Development Directorate
ROBERTS, MR CHRIS, Acting Commissioner for ACT Revenue and Acting Executive Group Manager, Revenue Management, Treasury, Chief Minister, Treasury and Economic Development Directorate

THE CHAIR: Good morning, and welcome to the public hearing of the Standing Committee on Environment and Planning for our inquiry into the Planning (Missing Middle Housing) Amendment Bill 2026. The committee today will hear from the Acting Commissioner for ACT Revenue and the Minister for Planning and Sustainable Development.

The committee wishes to acknowledge the traditional custodians of the lands we are meeting on, the Ngunnawal people. We wish to acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region. We would also like to acknowledge and welcome any other Aboriginal and Torres Strait Islander people who may be attending today's event or streaming it from somewhere else.

This hearing is a legal proceeding of the Assembly, and it has the same standing as proceedings of the Assembly itself. Today's evidence attracts parliamentary privilege. Giving false or misleading evidence is a serious matter and may be regarded as contempt of the Assembly. We are recording and transcribing our proceedings today. They will be in *Hansard* and they will be published. They are also being broadcast and webstreamed live. If you take a question on notice, can you use the words, "I will take that question on notice." That helps our secretariat to track down the answers.

I welcome Chris Roberts, Acting Commissioner for ACT Revenue, and officials. Thanks for coming in. As witnesses, you are protected by parliamentary privilege, and you are bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. We are not inviting opening statements, so we will go straight to questions.

I am interested in what impacts this will have in terms of how we do our calculations. When DAs are approved to vary the Crown lease for a secondary residence, the notice of the decision includes advice that says:

> As a consequence of this lease variation, the unimproved value of the property for rating purposes is likely to change. When rates assessments have been issued they will be amended to reflect the changed unimproved value from the time of the lease variation.

By automatically adding all the additional rights to the eligible Crown lease, it looks to me to be a reasonable assumption that land rates might be expected to increase, because of additional rights. Have I got that right?

Mr Roberts: It is not ordinary for the Commissioner for ACT Revenue to provide

opinions to the ACT valuation office—or publicly, indeed—ahead of any proposed bills. Any action otherwise might prejudice or pre-empt that valuation process. Valuations are conducted independently by qualified valuers within the ACT Revenue Office, and they use market-based methodologies, of course.

The valuations inform the commissioner. The commissioner is responsible for determining the unimproved values of the land. Valuations typically use the best and highest use of the property, and the valuation would likely consider, if the bill is passed, if this alters the underlying permitted best use of the property.

Having said that, I know I have not answered your question directly, and I have deliberately done that. We can say, "If this bill goes through, what are the sort of things that a valuation would think about that might be impacted by the passing of the bill?"

THE CHAIR: That would be very helpful, and you are doing a very good job of explaining why you are not answering the question. I understand that it is kind of a hypothetical.

Mr Roberts: It is.

THE CHAIR: But we would also expect that government might have considered this and done some modelling. Keep going, and tell me what you think might be useful.

Mr Roberts: Sure. The key feature of our valuation system is looking at that unimproved value focus. This value excludes the buildings and improvements, and it reflects the land value only under its permitted best and highest use. Any of the changes introduced under the bill would need to be assessed against that current valuations approach; in particular, if anything has changed in its permitted best and highest use. Essentially, we want to see whether the changes in the bill that we are considering today actually alter what is already permitted as a use of the land.

THE CHAIR: I would imagine that they do alter what is permitted as a use of the land, and they do have an impact on that best and highest use. Have you conducted any modelling on the likely impacts of this, or do you know if somebody else in government has conducted modelling on that?

MR CAIN: Do you mean on the valuations, Chair?

THE CHAIR: Yes.

Mr Roberts: I want to be careful here, because the bill is about a process change. It is designed to increase ease of use for users. Also, it is to give an outcomes-based result, at the end of the day. Essentially, it is about process, and it is not designed to impact permitted or best use of that property.

THE CHAIR: Do you have an idea, going forward, or maybe from a recent example in the past, if someone added a secondary residence on a property in Kambah, by how much the unimproved value of the property would increase as a result?

Mr Roberts: That is a good question. Again, I am trying to relate that back to the scope

of the inquiry here, which is looking at the change in the process itself. Hypothetically, there could be a block of land, and someone chooses to put a secondary residence on that block of land. If they are entitled to, they were always entitled to, as part of the valuation process. After this bill goes through, it will allow somebody who is thinking about doing the same thing to go through a more streamlined process. Has it changed the right of that property for its best and better use? That is the question that the valuation team will need to answer.

THE CHAIR: I understand. The legislation only specifies Crown leases that authorise use of land for a single dwelling, and not all residential Crown leases have that kind of purpose clause. The Revenue Office will need a process. Actually, maybe this question does not matter. If you do not think this legislation will have any impact on rates valuations, maybe it does not matter if some Crown leases are different from others.

Mr Roberts: I am not trying to say that I have an opinion on whether it does impact valuations or not; what I am saying is that there is a current process in place that currently considers its permitted best and highest use. The question that the valuation office would need to ask itself is: if a bill came through to improve the application process, to put a secondary dwelling on it, would it change its underlying permitted best and highest use? That is the question that would be put to them.

THE CHAIR: Do you think this bill does change the underlying best and highest use?

Mr Roberts: I do not have an opinion on it.

THE CHAIR: Because it is only a bill, and that is not your job?

Mr Roberts: That is right. There are processes in place to assess these things, as they go through. I am providing the framework that would be used, and I do not speculate on this. It is not in the public interest.

THE CHAIR: Can you tell me when in the process you would have to form that opinion? If this bill passes—and it is in train already—at what point does the ACT Revenue Office do that?

Mr Roberts: I would have to take that on notice, unless I get some information during the hearing that I can provide to you.

THE CHAIR: Okay. Noting that some Crown leases will allow secondary right of residence and some will not, has the ACT Revenue Office thought about what processes you will have to have in place to deal with that, to be looking at different leases and with different purpose clauses?

Mr Roberts: There are standard processes in place for valuation. It is quite transparent. It has been reviewed. I do not have any concerns, should this bill pass, that the appropriate processes will be in place to consider the impact on the valuation process.

THE CHAIR: Okay; thank you. Mr Cain?

MR CAIN: Mr Roberts, does the ACT valuation office still sit within the

commissioner's office?

Mr Roberts: It is part of the ACT Revenue Office.

MR CAIN: So it reports to you?

Mr Roberts: I am the responsible signatory, yes.

MR CAIN: What influence do you, as commissioner, and Treasury, having the broader oversight, have on the ACT valuation office and their approaches to valuation?

Mr Roberts: That is a good question, Mr Cain. It is important that there is confidence in the independence of the valuation office.

MR CAIN: But how are they independent, if they are sitting within your office?

Mr Roberts: There are protocols and guidelines that we adhere to.

MR CAIN: Can you provide those, please?

Mr Roberts: Sure.

MR CAIN: Is the ACT valuation office ever given direction by Treasury or the commissioner to produce a certain outcome that might favour balancing the books?

Mr Roberts: That is not to my knowledge.

Mr Campbell: The answer is no.

MR CAIN: That has never happened in the past, either?

Mr Campbell: I have no information to suggest anything that has happened along those lines at all.

MR CAIN: Having regard to the fact that the ACT valuation office sits within Treasury and within the Revenue Office, doesn't that raise some questions over its genuine independence in providing fearless and frank independent valuation advice?

Mr Campbell: As the acting commissioner has mentioned, there are very strong processes in place. I have no direction whatsoever over the commissioner's role.

MR CAIN: You will provide those processes and protocols to this committee?

Mr Campbell: Yes. It is also just how we operate. There is absolutely no interaction, for a whole range of tax secrecy provisions, if nothing else. We absolutely adhere to all the laws in relation to the independence of the authority.

MR CAIN: There is no interaction, but they sit within your office, administratively. How do they report to you?

Mr Roberts: Our valuations are determined independently. They are then passed through to an operations area. They are then independently checked in the operations area. Recommendations are then made—

MR CAIN: Independently checked by the operations area? What do you mean by that? Why would an operations area check a valuation?

Mr Roberts: At the end of the day, I need to be advised and—

MR CAIN: No, I am asking you what you meant by—

THE CHAIR: Mr Cain, let him finish the sentence.

Mr Roberts: Mr Cain, I can provide a thorough process. I would like to answer your question properly. Is there a particular bit of information that you are seeking?

MR CAIN: You just said that the processing area will assess the valuation. What do you mean by that?

Mr Roberts: I will take it on notice.

THE CHAIR: Mr Roberts, would you like to take on notice what the process is and come back to us?

Mr Roberts: Yes, thank you.

MS CARRICK: Will there be an increase in the lease variation revenue received because of the bill?

Mr Pirie: We have not explicitly modelled that. Picking up on what Mr Roberts has been talking about, our understanding is that there are no changes to the highest and best use that goes to the value of the land. I am speaking slightly in a different portfolio here, but our understanding is that the process around varying a lease has always ultimately been exempt from any charge, and we do not anticipate any change to that arrangement. That is our understanding. We would not anticipate any additional LVC revenue from those changes.

MS CARRICK: Not from the lease variation charge, as opposed to an administration fee to vary the lease?

Mr Pirie: I will probably need to take on notice the administration fee.

MS CARRICK: The lease variation charge. I am not really interested because an administration fee, presumably, would be pretty minor. I am talking more about an increase in the revenue that the government receives for the lease variation charge.

Mr Pirie: Based on where we are at currently, there is no expectation of additional LVC revenue from this particular bill and what it is proposing.

MS CARRICK: When you talk about best and highest use, presumably, that is coming

from the changes to the Territory Plan for the missing middle that are allowing greater density, and the lease is just reflecting the changes in the Territory Plan. When you change the lease, that triggers the lease variation charge. The Territory Plan is allowing higher density; the lease reflects the higher density that the Territory Plan is allowing. Presumably, with the higher density allowed on the blocks, eventually that will flow into more lease variation charge, will it not?

Mr Roberts: The focus of this hearing is on the administrative changes to streamline the process. Those administrative changes will need to be assessed to see whether they are changing the permitted best and highest use of that land.

THE CHAIR: I think the question was more about the missing middle.

Mr Pirie: Ms Carrick's question is a good one. We can have a change in development rights under the Territory Plan. The question then is whether particular properties can avail themselves of those new development opportunities and, in some instances, they will need to vary their leases to realise the new development opportunities.

MS CARRICK: I would like to ask about the timing. Will this bill go through at the same time as the Territory Plan missing middle changes go through?

Mr Roberts: Is the question: are they going through at the same time?

MS CARRICK: Yes.

Mr Roberts: I will have to confirm that.

Mr Campbell: That is probably not a question for us.

MS CARRICK: Okay; fair enough. Will the lease attract the variation charge when it moves through the new exempt development pathway? This bill establishes a new exempt development pathway.

Mr Roberts: Could you ask that question again?

MS CARRICK: This bill moves some of the development into an exempt development pathway.

Mr Roberts: That is right.

MS CARRICK: When the lease is changed, does that attract the lease variation charge, when it is in the exempt development pathway?

Mr Roberts: Currently, a secondary dwelling would not attract a lease variation charge; it is an exempt event, anyway. In terms of smaller scale subdivisions, they are still assessed. That process is unchanged from what happened previously. They would still need to apply to vary the Crown lease.

MS CARRICK: Okay. Most of my questions are about the lease that is attached to the missing middle. This is just streamlining the process, isn't it?

Mr Roberts: I think that is a really good characterisation of what is happening here. It is just about streamlining the process, and it is just a smaller component of the reforms. Yes, it is designed to speed up the process.

THE CHAIR: I think we are regretting not calling you to appear during the last inquiry, actually.

Mr Roberts: Okay.

MS TOUGH: If this bill passes, is it creating additional work for the Revenue Office to implement the changes or is what happens with the changes just picked up in the ordinary valuation process, and ordinary rates and land tax processes?

Mr Roberts: I think it would be part of the ordinary process. Changes happen all the time. There are practices and processes in place.

MS TOUGH: It is not creating this whole additional workload on the Revenue Office; it will just get picked up in ordinary, day-to-day processes?

Mr Roberts: That is right. These are events that happen ordinarily. The bill is just helping the applicants—

MS TOUGH: More people to do it, yes.

Mr Roberts: to do it more easily. Whether there are more that apply for it or less, I do not know. It just makes the process easier.

MS TOUGH: Yes; then that is picked up by what the Revenue Office would have done, anyway.

Mr Roberts: That is right, yes.

MR CAIN: You mentioned that there is no increase in LVC. Is there any anticipated reduction? There is no change in LVC at all?

Mr Roberts: I do not have an opinion on that.

Mr Pirie: We have not updated our forecasts to account for this particular bill, or our estimates, for that matter.

MR CAIN: Related to the unimproved value, which has already been discussed, has Treasury done any modelling on the changes that this bill, or indeed the missing middle reforms, will make to the unimproved value of RZ1 parcels? Have you done any modelling at all on the revenue impact of that, in terms of the calculation of rates and other UV-based taxes?

Mr Pirie: An important point on general rates, if I can start there, is that, ultimately—

MR CAIN: I do not need a lot of background here. I have a very specific question.

Mr Pirie: No, I understand, Mr Cain. General rates revenue is determined by the target that the government sets for growth in average general rates for the existing rateable properties—

MR CAIN: Have they set a bigger target because of this bill or the missing middle reforms?

Mr Pirie: I am not aware of any decision to that effect. The important point is—

MR CAIN: In budget forecasts?

Mr Pirie: I will just add that what UVs, the value of properties, ultimately does in the context of rates is affect the distribution of the revenue across rateable properties across the territory. It does not tend to impact the aggregate amount of revenue; it tends to impact principally how that rates revenue is distributed across households.

MR CAIN: You are saying there is a number that is picked to be collected from rates. How is that number selected? Does that mean that the UVs and other elements of the rates formula get adjusted to meet that number?

Mr Pirie: The government sets its target for growth in average general rates each year in the budget.

MR CAIN: How does it set each year's target, and does it consider the missing middle reforms, including this bill, as affecting that target?

Mr Pirie: The current settings for general rates growth reflect tax reform stage 3 settings, so there is a growth—

MR CAIN: We are not talking about stamp duty reforms; we are talking about—

Mr Pirie: No, growth in general rates.

MR CAIN: the missing middle reforms. How has that affected the government's anticipation of rates collected in the ACT?

Mr Pirie: Our general rates forecasts are based on the settings for growth in average general rates, and—

MR CAIN: Yes; how is that growth estimated and do the missing middle reforms have an impact on that estimate?

THE CHAIR: Mr Cain, could you let him finish the sentence before you come in with a supplementary?

MR CAIN: I am actually asking the same question, Chair, with respect.

Mr Pirie: I am just trying to finish the answer, sorry. Growth in average general rates for existing dwellings in the rateable tax base is set by the government through the

budget process. In addition to that, there will be growth in the number of rateable properties in the territory across the forward estimates. That is determined principally by population growth.

MR CAIN: The growth in the number of rateable properties would be through new developments or subdivisions. I am interested in the revenue that is anticipated from the missing middle reforms, including this bill. Has Treasury done modelling that has anticipated the missing middle reforms being implemented, including this bill?

Mr Pirie: No.

THE CHAIR: I will take a moment to educate myself. I am sure you will indulge me. I think I heard you explain, Mitch, that it is a Treasury process that sets the overall aggregate of what revenue should be raised by rates; then the UV determination is used to determine where those rates fall. Did I hear that correctly?

Mr Pirie: A five-year average of unimproved values across the territory; that is used to distribute the rates revenue that we are forecasting to raise as a result of the settings that the government outlines in its budget. The best way to think about it—and I am simplifying it a little bit—is: to the extent that one part of the territory's AUVs grow more quickly than the average AUV growth for the territory, you might see slightly faster rates growth there. Equally, there will be parts of the territory where the five-year average unimproved value is increasing less quickly than the median or the average, and you would see their general rates growing a little bit less quickly. You will see a distribution around the average growth target that the government has set in its budget.

THE CHAIR: It is primarily Treasury, through the budget, that is setting what the rates collection should be?

Mr Campbell: The aggregate; that is right. The easiest way to think about this is that there is an aggregate number that is set. It is not bottom-up modelling of, say, particular interventions. It is an aggregate number that is determined. That aggregate number is then stratified across rateable properties using the AUV.

MS CARRICK: What proportion of the lease variation charge comes from the small-scale residential developments—the missing middle?

Mr Pirie: I would have to take that on notice. Generally, historically, the majority of LVC revenue has come from larger, mixed-use type developments, rather than smaller-scale developments.

MS CARRICK: Thanks. Take on notice what the percentage is between the small ones and the big mixed-use ones. The industry is always saying that the lease variation charge reduces feasibility when it comes to developing. Will you do any modelling that looks at the changes in the intensification of the land, the lease variation charge that it attracts and the impact on developers' decisions?

Mr Campbell: We are not doing work at the moment in the context of this bill, and we are not doing work in the context of missing middle more generally, other than in the context of a broader review that is being undertaken in relation to LVC, which is

currently underway.

MS CARRICK: Will that LVC review look at these smaller missing middle developments and the impact of the LVC?

Mr Campbell: It will feed into our thinking. It is not an explicit policy line that we are undertaking, but it will be part of the thinking.

Mr Pirie: We do prepare forecasts of dwellings investment, as part of our budget process, in preparing our economic forecasts. We consider a range of economic factors that influence dwellings investment. It is important to note that there are a large number of factors—construction costs, labour force constraints, interest rate settings at the national level. There is a really large range of factors that impact decisions around new dwellings investment. Taxes and charges are one of those, ultimately. There is a broad range of factors that influence investment decisions.

MS CARRICK: Do you know what percentage of building costs taxes and charges are?

Mr Pirie: No, I do not have that figure to hand.

MS CARRICK: Can you take that one on notice?

Mr Roberts: That would be a difficult one to answer.

THE CHAIR: That might be one for the planning minister.

Mr Roberts: Yes, it is probably better for them.

THE CHAIR: It is probably appropriate to ask the planning minister to take that one on notice.

MR CAIN: You are the acting commissioner. How long have you been in that role and how long will that continue?

Mr Roberts: It is from 5 May until the 27th.

Mr Campbell: Just annual leave.

MR CAIN: The commissioner is on leave at the moment?

Mr Campbell: Yes.

THE CHAIR: Thank you very much for your attendance today and for answering our questions. There were a couple of questions taken on notice—not that last one; we will place that elsewhere. If you get your answers to our committee secretariat within five business days of receiving the uncorrected proof *Hansard*, that would be very helpful.

Short suspension

STEEL, MR CHRIS, Treasurer, Minister for Planning and Sustainable Development, Minister for Heritage and Minister for Transport
BENNETT, MR JAMES, Executive Branch Manager, Building, Design and Development Branch, City and Environment Directorate
GREEN, MR BEN, Executive Group Manager, Policy, Planning and Built Environment, City and Environment Directorate

THE CHAIR: Welcome, Mr Chris Steel MLA, Minister for Planning and Sustainable Development, and officials. As witnesses, you are protected by parliamentary privilege and you are bound by its obligations. You must tell the truth; giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly.

We are not inviting opening statements, so we will proceed straight to questions. Minister, a number of the submissions to our committee raised issues around land value capture, including through lease variation charge. There was a lot of commentary about the impact of lease variation charges on the uptake of missing middle. Have you received any financial modelling from any groups like the Property Council on what the impact might be?

Mr Steel: I will have to check. I will take that on notice, in relation to what I have received from the Property Council. This bill that you are inquiring into will not change the need for a lease variation, which would then attract a charge. No taxation reform is being made through this bill. A lease variation charge would still apply. It is simply making the administration of a lease change simpler for missing middle housing developments.

THE CHAIR: Have you done any financial modelling in government about LVC and missing middle impact?

Mr Steel: LVC is currently being reviewed by the government. It has been announced that, with the current partial exemption coming to an end on 30 June, we are looking at the taxation settings that would apply beyond that. There is a broader review being undertaken, which Mr Bennett can talk to. It is only in its relatively early stages; the decisions have not yet been made by government and what the outcomes might be of that review have not been announced. Certainly, we will be considering it, but this bill makes no changes to taxation policy for the territory.

It is also important to note what this bill is not. This is not about the missing middle housing reform amendments to the Territory Plan. This bill is a complementary piece of legislation that makes minor and technical changes to the lease variation process, which requires a DA. It does not remove the need for a design and siting DA for dwellings that are built. That would still be required if this bill is supported.

Mr Bennett: I might refer you to the YourSay consultation page for the missing middle housing reforms. We have published some FAQs on that website, and one of them talks to planning and economic feasibility assessments. We commissioned Purdon to do some work, back in 2024, at the start of this reform program, which helped to understand some of the planning and economic barriers and constraints to the uptake of missing middle housing. We have also done some internal testing around the different

cost elements of new construction work and where LVC might sit within that framework, to look at developability and feasibility of different outcomes, which then informed where we landed for the DPA for the missing middle housing reforms major plan amendment.

THE CHAIR: Is the YourSay process the primary source of information on that at the moment?

Mr Bennett: That is where we have published all the background information about the missing middle housing reforms. That webpage also links to our Territory Plan amendment webpage, where we have all the revised Territory Plan amendment documents. The submissions are published there, and some of the background supporting report touches on these issues that have been raised, and it has the government's response to those issues.

THE CHAIR: That is the information coming out from government. I need the information coming in from government. Are your primary inputs coming from the Purdon commissioned work and from inputs through YourSay?

Mr Bennett: The Purdon commissioned work was the primary consultancy that we undertook. All the submissions that were received from different parties through the consultation on the reforms are all published on the website.

THE CHAIR: On a slightly different question, why did government decide to restrict the concession for a secondary residence to Crown leases that only permit a single dwelling?

Mr Bennett: I can talk to that. In our residential leasing system, we generally have two categories of leases. We have leases that are for residential purposes. Leases of a certain era were written in such a way that the lease purpose clause says "for residential purposes". We have a second, more recent set of leases that have been issued that specify the number of dwellings. With those leases that are written for residential purposes, there is no restriction on the number of dwellings. The way that that is interpreted by the Territory Planning Authority is that you do not need to do a lease variation to add a secondary residence to a lease that has a residential purposes purpose clause.

For the leases that have a restriction to a single dwelling only, those leases need to be varied to add the secondary residence entitlement to that lease. As an interpretation issue, on the way that different leases are written, the amendment talks to those leases that have a restriction to a single dwelling only, so this process applies to those, because it is needed for those, to add in the secondary residence entitlement.

THE CHAIR: You are simply equalising a historical—

Mr Bennett: Equalising. It can be done under the residential purposes without a lease variation, because there is no restriction on the number of dwellings. A single dwelling only has a restriction, so we have added it in, so that those leases are considered in the same way.

THE CHAIR: I think I understand; thank you. Ms Carrick?

MS CARRICK: I appreciate that this bill is about streamlining the lease variation process. Will it go to the Assembly at the same time as the missing middle reforms? It reflects the leases that will change, with the changes that the missing middle allows. It would not make sense if it went in before the missing middle.

Mr Steel: The intent is that it would come to the Assembly. I will not tell you how long the committee has to inquire. That is a decision for you to make.

MR CAIN: That is fresh. That is nice to hear!

THE CHAIR: Mr Cain.

Mr Steel: Certainly, I would expect that that would happen after the missing middle housing reforms are considered, after a decision is made by me, as minister, on them; then there will be consideration by the Assembly. The missing middle housing reforms do not depend on this bill whatsoever to be implemented, but they are—

MS CARRICK: Complementary.

Mr Steel: The measures in the bill are complementary in terms of streamlining the process for lease variations. But it does not remove the requirement of the DA for design and siting. That is still required, and it will enable the community to have their say on the missing middle housing developments that are proposed. That process will still exist; there just will not be the need for two DAs—one dealing with the lease variation component and the other dealing with the design and siting.

It is important to add that, in other jurisdictions, where they do not have a leasehold system, this process is not required at all. It is something that is very specific to the ACT. The addition of additional dwellings through a separate lease variation DA does not add a huge amount of value to the process when the actual design and siting DA is the substantive DA that will address what is appropriate on the site.

MS CARRICK: Why did you change it from making the lease exempt from the certifier or the private assessor to the authority?

Mr Bennett: Are you talking about the process for the amendments relating to the Crown lease variations?

MS CARRICK: Yes. It says the requests for the exemption go to the authority and they have 10 days, as opposed to the private assessor.

Mr Bennett: At the moment those lease variation applications need to go through a full development application process in order to be assessed. What we have created here is a streamlined assessment pathway, limited to simple lease variation applications. In our consultation with the Parliamentary Counsel's Office, it was determined that that should sit in the act.

That new application process sits in the act. Someone can apply to the Territory

Planning Authority for a determination that that lease variation is exempt, and it can benefit from an exemption declaration. The references to the certifier in that process are consequential changes to reflect that there is a new process that now sits in the act and a new decision made by the Territory Planning Authority that someone can then benefit from the exempt development pathway.

Mr Green: The other point to make is that building surveyors and works assessors have never had the power to determine lease variation. That has purely been a Territory Planning Authority function for a development application process. This is making sure that that decision is not taken by those entities, who have powers to make decisions about other things.

MS CARRICK: Noting that this is all streamlining that lease process, when there was a DA for the lease, it did provide some early scrutiny of the change. Now the scrutiny will be all around the DA itself. How are things strengthened to ensure that there are good outcomes and strong compliance, given that we are minimising the scrutiny? Will they all have DAs and appeal rights at the DA process stage, as opposed to the lease change?

Mr Bennett: The design and siting, being a built form building that can be built, still needs to go through the development application process. What happens in the system at the moment is that, generally, the lease variation and the design and siting DA are lodged together and they are assessed together. What this allows is for a limited set of applications, being those about increasing the maximum number of dwellings or changing that. These are the unit titling process changes. For this limited set of applications, we are providing a streamlined process. This is not about major redevelopment proposals where we are going from one use to adding 100 dwellings in a town centre; this is about those very small, minor changes where that is consistent with the zoning and the outcomes that we want to achieve in that area.

MS CARRICK: Yes, I appreciate that. My question is about scrutiny. If we are taking away that early scrutiny of the lease process by streamlining that, that is fair enough; I get that. But when we get to the DA, the design and siting, there is a DA; are there still appeal rights?

Mr Bennett: Of the DA, yes. If those developments have appeal rights, they will continue to have appeal rights into the future. The assessment of the built form outcome, the impacts about the built form, traffic and all those things will be assessed in the DA as they are now. There is no change to that process. This is merely an administrative simplification of just the lease variation element that goes alongside the design and siting DA.

Mr Green: We have talked a bit about process and efficiency. At the moment, it is a very linear process of a development application coming in, a decision being made, a series of conditions that need to be responded to, as part of the lease variation generally, and other conditions. This drags out an entire process, from application to someone moving into a home. This will truncate that by running processes in parallel.

MS CARRICK: I appreciate that. I think it is good to streamline the process. I cannot see that it is necessary to have to do two DA processes, but I am always keen on seeing

where scrutiny sits and that it is appropriate. We can look at the Manuka hotel situation, where there is retrospective approval of a DA. I am always concerned about the impact on neighbours and what compliance there is.

Mr Bennett: All those issues that you have raised there are the things that are considered in a design and siting development application, and that will remain in this process.

MS CARRICK: What increase in secondary dwelling development is expected from removing the lease variation requirement?

Mr Bennett: As we explained in answer to the previous question, we have leases that have residential purposes that allow people to build a secondary residence under that lease entitlement already, where they have the general residential purposes clause. This change here is about writing into leases the entitlement to have a secondary residence. We do not think that it will meaningfully increase the number of secondary residences that we have, but it will make the process to achieve those quicker and more streamlined.

This is not a proposal to allow more secondary residences from a planning perspective. Those proposals will still need to be assessed through a DA, and they will have to meet the planning rules. With the missing middle housing reforms, the associated Territory Plan changes, that set of reforms may increase the flexibility of how people can use their sites. But this particular change is just about the administrative processing requirements around achieving the lease compliance to add a secondary residence.

MS CARRICK: Basically, it just reduces frustration in the sector.

Mr Bennett: It reduces frustration and time for things that can be assessed through a different process. That is right.

MS CARRICK: Some submissions talk about requiring strong planning to go with this. If there is no DA for the leases, it is just reflecting what the missing middle changes will allow on a block. Some submissions talk about ensuring that what is allowed on the block has strong planning behind it. Will the district strategies be updated to reflect what potentially will happen?

Mr Bennett: What we have done, through the missing middle housing Territory Plan amendments, is to very clearly set out the policy goals behind the missing middle housing reforms. That includes changes to the zone objectives in the Territory Plan for the different zones. Also, very importantly, it includes the Missing Middle Housing Design Guide. That will be a very strong guide and reference tool as to how a new development will need to be built in these suburbs.

That sets out the broader policy goals of government, and it also talks to how buildings can be designed well, to consider things like the streetscape, the heritage areas, trees and the interaction with the surrounding suburb. That will be delivered through the Missing Middle Housing Design Guide. There will be DAs to assess these things. These changes are just about making the administrative processes simpler and more truncated. The missing middle housing reforms talk about the policy outcomes to be achieved in

residential suburbs going forward.

MS TOUGH: I am interested in the amount of time that it will save applicants and what efficiencies will be gained by applicants through the new, truncated system, if this bill passes.

Mr Bennett: For the process around Crown lease variations, that usually has to go through a development application process. There is a 35- or 45-day assessment timeframe. That assessment timeframe can now be brought down to 10 days. Immediately, for that particular application, it has a significant time saving of about 25 days.

The other point that Mr Green made was that that can be run concurrently with the process, so they are no longer stacked on top of each other, and extending the timeframe. They can be run concurrently, to get a good time saving for the applicant. It is the same with the secondary residence proposal. At the moment that needs to be a development application; it can take between 30 and 60 working days to get through that process. With needing to go through a DA to have a lease variation approved and then having to go and register your new lease and get a new lease granted, that process can take 15 to 20 working days, just in processing time, to go and register that lease variation with the Land Titles Office.

MS TOUGH: That is after you have already done the 30 to 60 days.

Mr Bennett: That is after you have done the DA for that process. Here, for the secondary residence proposal, that will save all of that processing time after a DA is approved. We will read that entitlement into all leases, so that you do not have to go through that. It is really just paperwork to register a decision on the Land Titles Register. There will be a time saving there, we expect, of 15 to 30 working days, just in administrative processing time.

The other important change that we have here is about the subdivision provisions and taking what we are calling smaller-scale subdivisions out of the significant development application process. At the moment, all subdivisions are described as a significant development proposal and need to go through the significant development pathway, which involves two rounds of public consultation.

This process of taking those out of the significant development pathway and putting them into the normal DA process should save, we think, 15 to 30 working days of assessment time. It will still give people the opportunity to comment, and for those issues to be looked at and managed appropriately, but without the two rounds of public consultation, because it does not raise those significant issues that need that double notification process.

MS TOUGH: It is still ensuring public consultation, public comment, but truncating it and/or putting it concurrently.

Mr Bennett: Absolutely, yes. And providing the appropriate assessment timeframe and the appropriate public notification without having an overly burdensome process that does not add additional value. We are saying here that the issues that are raised in a

subdivision in suburbs to create and consolidate blocks can be done through a normal DA process, and it has been done before, through that process.

MS TOUGH: This is in response to feedback from people who are developing, subdividing, putting on second dwellings, saying that the timeframes have become a bit too long and burdensome.

Mr Bennett: Absolutely, and the feedback that we have received through the missing middle housing reforms about the opportunity to get better development outcomes by having more integrated development and consolidating blocks. We can resolve things like access and impacts to neighbours in a better way if we can combine some land together, and without having that go through several processes of administration and assessment, when it can be done effectively through one process.

MS TOUGH: Do you think that will then have a flow-on effect for neighbours and people in the area when it is just the one process, the one consultation? There is a better chance to let everyone know what is happening and at what time, so that everyone can be on the same page?

Mr Bennett: I think that is right. We get a lot of feedback from people about having to comment on the same proposal at multiple stages. Providing the simplicity for people to say, "Here is a proposal; provide your comments on it," rather than having to come back; there may be uncertainty about what these different processes are, and a bit of frustration about having to provide the same comments over and over again for the same proposal. That one opportunity to say, "This is the proposal, this is your opportunity to comment," gives us the ability to effectively assess that, while we are doing the assessment of the application.

Mr Green: The other complementary piece of work that we are doing, and that we have spoken about before, across the directorate is looking at how we simplify the development process in its entirety. Whilst there is a time saving, there is also a more immediate opportunity to commence construction on these dwellings, which I do not think we can lose sight of.

MS TOUGH: Yes. By having the shorter development application process, the shorter processing times, it will be quicker to be shovel-ready and for an applicant to commence building.

Mr Green: That is right.

THE CHAIR: Mr Cain?

MR CAIN: We have a proposal in the bill for a process to declare a lease variation as an exempt development. One of the conditions that the department will assess—this is in proposed section 149C—is that it must consider, as one of the factors, whether it is suitable, in the context of the land and surrounding area, to make the declaration. What guidelines will be available and in what form will they be provided to work out whether an application for exemption is suitable in the context of the land and surrounding area?

Mr Bennett: We have included this 149C(2)(b) provision as an important catch-all

provision for the Territory Planning Authority to be able to consider a particular application that comes in for a particular site against the context that that site is within. Generally speaking, there will be a land use zone that sits over the top of that site and there will be assessable uses that are in that zone.

What we are looking at here is the very small number of applications where that particular use that they are proposing is not a suitable use for that block. I am talking here about sensitive uses that may be proposed next to more noisy or air polluting uses. For example, we may want to say that a childcare centre is an allowable use for that block, but the surrounding blocks are heavy industrial blocks; therefore, we do not think that a childcare centre is an appropriate use for that particular block, even though the zoning may allow it.

MR CAIN: Obviously, that would make sense to most people, I am sure. But what about within a residential area, where someone wants to get an exemption for a development to add to the number of dwellings; how do the decision-makers work out whether it is suitable?

Mr Bennett: That will be guided by the residential zone policy outcomes. For each zone, we have written a set of residential zone policy objectives to be achieved, and it is guided by the types of outcomes that can be approved in that zone. There is guidance in the district strategies that then flows into the Territory Plan, into the district policy and the residential zones policy. That sets the policy context for what is a suitable outcome for particular blocks. We have a catch-all provision here to be able to refuse the very small number of applications that may not be suitable on that particular block because of the surrounding context.

MR CAIN: You do not know that until you have seen what is going to come in, I suppose.

Mr Steel: There is also, in 149C, the ability to establish criteria prescribed by regulation. If there were issues arising around consideration by the Territory Planning Authority of these changes to leases to add additional dwellings, that could be addressed through additional criteria, if necessary.

MR CAIN: What guarantee is there that one particular decision-maker will assess an application for exemption in the same way as a different individual decision-maker? Obviously, it is a constant question, for any discretionary exercise, particularly when someone has to say, "Is this suitable?"

Mr Bennett: That is assessed by the individual decision-maker within the planning framework that they are operating within. We have the layers—the district strategies, district policies in the Territory Plan, and residential zones policies. All those layers describe, with cascading detail, what sorts of outcomes we want to achieve in the system.

MR CAIN: That does not really touch on it. If you have someone at a desk over here, and someone at a desk over there, under the same guidelines and processes, what guarantee do you have that they would each reach the same decision on the same application for an exemption?

Mr Bennett: The answer to that is they are all operating under the same system, the same guidelines and the same processes. They are all applying those same policy outcomes that the territory has set to be achieved in those zones.

MR CAIN: I also note that the section provides 10 working days to decide such an application. How is that really enough time for something that may well be, in one person's opinion—and I am sure you will hear many opinions on these—very impacting and negative in the context of the surrounding area, versus someone who might think, "No, I just want to do it because I get more dwellings"?

Mr Bennett: These applications are limited to a very small category of applications and—

MR CAIN: What limitation is that?

Mr Bennett: Only to state the maximum number of dwellings that can be permitted on the block, to change the maximum number of dwellings, to authorise the use of land for a secondary residence, or to change a provision relating to an easement.

MR CAIN: That may be a limited category, but it is obviously something that would be highly impacting, particularly in a residential zone.

Mr Bennett: Running alongside this lease variation application process is the design and siting DA. You cannot have a lease varied to allow 20 residential dwellings on a block that only allows two dwellings to be built, through the design and siting process. No-one in their right mind will go and vary their lease to put 20 dwellings on, when the planning system only allows them to build two.

MR CAIN: There are some who would challenge that. Obviously, there is this thing called height, but anyway.

Mr Bennett: That is where the missing middle housing reforms and DPA-04 set height limits and site coverage limits. There are restrictions on what can be built, running alongside the lease variation. In the missing middle housing reforms, we have also set maximum dwelling densities that can be achieved on particular blocks. Through the Territory Plan, we have controls on height, site coverage and number of dwellings. Running alongside that, we have the consequential change that will need to be made to the lease to unlock that development opportunity that needs to be assessed and approved under the Territory Plan.

MR CAIN: I am sure there will be many eyes watching how this rolls out, if this passes.

Mr Green: The other point to make is that there is active management of the development assessment system, and consistency in decision-making is really important right across the portfolio of development assessment.

MR CAIN: That has already been demonstrated in current, similar decision-making processes.

Mr Green: The Chief Planner, when we have a new provision, will work to make sure that we continue to maintain that consistency in the decision-making.

THE CHAIR: I never thought I would say this: I have no more questions for the planning minister on this particular bill. I will hand over to Ms Carrick.

MS CARRICK: I want to come back to the scrutiny side of things. Will there still be minor and major DAs and, if so, can minor DAs appeal to ACAT or do they have to go to the Supreme Court? For example, if you cannot appeal through the lease system anymore—perhaps you could, and you could not through the DA process. Have we ended up in a situation where we have some categories of developments where you could appeal, and where you could not in the design and siting; you take away the lease appeal rights, and we have categories that end up with no consultation or appeal rights?

Mr Bennett: No. The answer to your question is that the thing that gives the approval for the building to be built, which is the thing that would be approving the impacts of the actual development, is the design and siting DA. If that has appeal rights, it will continue to have appeal rights; that is not being changed here. The lease variation component for that is really a technical supporting change to the approval of the design and siting DA, and we are not touching the process for the design and siting DA.

MS CARRICK: I appreciate that, but if you have design and siting DAs that do not have consultation or appeal rights, and they had it with the lease variation—maybe you could not appeal the DA for the design and siting—have we ended up in a situation where, if you take away the rights at the lease variation stage, and you do not have them at the design and siting stage, we have categories that will now not have any consultation or appeal rights?

Mr Bennett: I might need to take that explicit question on notice and come back about any interactions with the process for appeal rights there. We are not intending to materially change the appeal rights that are applicable for residential development through this process. That is not a policy outcome that is being sought to be achieved, but we will come back with a more detailed answer on that.

MS CARRICK: That would be good; thank you. A lot of the controls are now in guidance. The question is: how do you ensure, when people do go to ACAT, that they have a point of law to go to? How is it panning out? With ACAT appeals, how is it going to work when things are guidance? We know that things do slip through the cracks, and they always will. There is a small amount that will slip through the cracks, and people have rights. How is it going to work at ACAT when it is not in the Territory Plan anymore and it is guidance?

Mr Bennett: Are you talking about design and siting DAs now—the planning system more broadly?

MS CARRICK: Yes.

Mr Bennett: There are layers to the planning system that at each stage provide more detail and more guidance. We have moved to an outcomes-focused planning system. The Territory Plan now talks about the assessment outcome to be achieved. That is

supported by assessment requirements in the Territory Plan. There are assessment outcomes, the broad outcome; there are also assessment requirements that start to provide more refinement as to the outcome that can be delivered.

That is then supported by the design guides. In the DA process, you have to respond to the design guide and provide a written statement about how you have complied with the design guide. We also have the technical specifications that provide examples of how to achieve the assessment requirements and outcomes in the Territory Plan.

While we have an outcomes-focused system, we have layers below that which provide the description of what good outcomes look like and how they can be achieved. But we have moved to a system where people can provide the evidence base through their documentation in the DA process about why it is a good outcome in that particular situation. That is put out for public notification, and it is assessed by the authority against the different layers within the planning system that provide further guidance and further description of what good outcomes look like.

MS CARRICK: I think the Planning Act came in in late 2023, and the Territory Plan came in in 2024. Have we had appeals, and how have they gone?

Mr Green: I think there have been appeals. I am happy to take a specific question on notice, because that is an area—

MS CARRICK: Yes. How many appeals have there been, since the Planning Act and the Territory Plan came in, and what was the territory's success rate? How did they go?

Mr Green: I am happy to take that question on notice.

MS CARRICK: Okay; thank you.

Mr Steel: Maybe we can add an extra layer to that, to see whether any DAs for lease variations were appealed, as opposed to the design and siting DA. I suspect it is low.

MS CARRICK: Yes, that would be interesting, too.

Mr Steel: There is often not much that is substantive in the lease variation DA. Part of the issue for the broader community is that they often get confused. They see one DA go in for lease variation; they look into that, and there is not a huge amount of detail to that application, because the detail is in the substantive design and siting application, which is what we really want the community to be able to engage with through the notification process. That dual DA system is not only administratively complex, but also extremely confusing for the community, having regard to what is a relatively simple change to allow more dwellings that ultimately will then be supported by the actual design of the project.

MS TOUGH: I have a more general question. What is the risk to the missing middle reforms if the bill does not pass? What happens if the missing middle DPA happens, but this bill is not passed?

Mr Steel: This will certainly make things more administratively streamlined, to achieve

some of the outcomes under the missing middle housing reforms to the Territory Plan. The reforms to the Territory Plan will still be in place and people will just require a DA to be able to change their lease. If they are undertaking a subdivision, they will have to go through a more protracted process to achieve that outcome that would have already been permitted under DPA-04.

It is complementary and it is part of the government's broader construction productivity agenda, where we are looking at the whole planning and building system. We are looking at ways to streamline the system, to support more homes being built sooner. That is being achieved in a range of different ways—not just legislatively, but through administrative changes within the City and Environment Directorate. It will help to enable the home, but it is not required to be able to develop a missing middle housing development.

MS TOUGH: Without it, it is potentially longer until houses are ready to start construction, and applicants take longer to—

Mr Steel: Particularly for subdivisions, yes. The reforms that we were just talking about, to the broader planning system, that came in in 2023, were focused on subdivisions—large greenfield estates. There was a two-step process with 60 days consultation required for those subdivision applications, because they are large and complex estates that are being proposed.

With the changes through the missing middle housing reforms, when we are talking about a subdivision, we are really talking about dividing a block in half. It is not as complex as a large estate development that includes planning for new roads, utilities and all those sorts of things that are required in a brand-new estate. It is on a much smaller scale. The changes in this bill are trying to reflect the differences in complexity and scale in assessing those types of applications.

MR CAIN: Minister, during your comments about the committee's inquiry and the time we would take on this particular inquiry, you indicated deference to the committee, whereas previously you have been quite critical. I am wondering what has changed your mind.

Mr Steel: I have not been critical. I will not go back into the history; obviously, there are timeframes that the Assembly sets for the committee when it is looking into bills, when they are referred to the committee. There is a difference between that and considering draft amendments to the Territory Plan, where the timeframes are set out in the Planning Act. There is a different process that applies there.

MR CAIN: There does seem to be a change of approach on your part. Previously, it would appear that a minister of this government was putting pressure on the committee to produce something more quickly than we may have been able to.

Mr Steel: No. I will not go into too much of the history, other than to say that I have always respected the committee's decision-making, notwithstanding that there is a provision in the Planning Act for the minister to determine the timeframe for the consideration of major plan amendments by the committee. In the case of the missing middle housing reforms, I did not exercise that, in respecting the committee and their

judgement in relation to the matter, but I did also ask the committee, respectfully, to consider an earlier reporting date, and I am sure you did consider that.

MS CARRICK: My question is about streamlining processes. The bill is about streamlining processes in the context of leases. In the context of streamlining processes in other things, what work is going on to streamline Icon Water processes? We hear so much about Icon Water and those third parties being things that hold up the processes.

Mr Steel: Yes, they have been involved in some of the discussions that we have been having with the construction industry, as part of the development of the construction productivity agenda. They are referral entities that are engaged as part of a development application process, and through the building process as well. We are working with them around their requirements on development.

Mr Green: Expanding on what the minister has already described, right across our directorate, you are probably aware that we are doing work, not only engaging with external entities, whether that is Icon, Evo or the National Capital Authority, but working with our own internal business areas to look at how we streamline—to get, hopefully, to a point of being very clear around our decision-making in terms of a single decision from the directorate.

There are legislative provisions relating to the referral of development applications, in particular, to entities, and we are working pretty closely. I would need to take advice on what recent discussions we have had with Icon. Certainly, we have had recent discussions through the Planning and Construction Industry Chief Executive Reference Group. They have been a party to those discussions and are aware of the challenges expressed by industry, and a desire from government to move quicker with particular elements of their process.

MS CARRICK: With the utilities and densification, there needs to be augmentation of the old infrastructure. Is that something that is being held up, with Icon Water, as things are done block by block? What exactly is it that creates the slowness with Icon Water? What are the issues?

Mr Green: That is a question for Icon Water, to be honest. I would say, though, that there are a variety of different considerations on a block-by-block basis. We know that there are blocks that have particular easement and access requirements. There are blocks that are potentially located in areas where provision is different to some other areas. There may be areas at a particular point in time during the construction phase that are subject to utility upgrade works and the like, and maintenance. There are a variety of matters for consideration. In terms of what is slowing up their process, I think that question is best directed to them.

Mr Steel: In terms of augmentation, the intent of reforms like missing middle, which is focused on infill development, is to use the existing infrastructure more efficiently. Large-scale augmentation may not be required, particularly if we are talking about dual occupancy on a block. It will really depend on what infrastructure is there. That would have to be looked at as part of the application that is made, to determine whether additional investment is required in augmenting the system. Infrastructure and utilities have certainly been a consideration, as part of broader planning reform that is being

undertaken. CED has been undertaking some work on that. I will hand over to Mr Bennett.

Mr Bennett: I probably do not have a lot more to add. They are a very key stakeholder, and we are working closely with them to make sure that, with the government's housing agenda, we have all entities working together, towards the outcomes that we want to achieve. With those opportunities for conversations about where infrastructure investment is required, we are looking to see that we are developing processes to make sure those conversations are happening, that we are all working to the same plan, consistent with the government's planning reform and housing agenda, and that we are doing the early thinking and future planning about where infrastructure investment is needed to unlock those opportunities.

MS CARRICK: People get concerned about cumulative impacts, and they talk about precinct planning. Would precinct planning help with where augmentation is needed; therefore, would it potentially help with Icon Water? If it is done at a precinct scale, they do not have to deal with it so much on a block-by-block basis, and slow things down at the block level.

Mr Bennett: Yes. There is a whole range of infrastructure planning that goes on. There is infrastructure planning that goes on by those utility asset owners, as part of managing and owning their own networks. There is also infrastructure planning that goes on to support the government's planning reform, zoning changes and precinct redevelopment.

At different stages in the planning system, there is information being prepared for government to consider what the infrastructure implications are for new development proposals and what infrastructure investment is needed to unlock those opportunities. We look at infrastructure capacity in different areas. We look at the proposed density that may come from a new development proposal, and we look at when infrastructure upgrades are needed to unlock that opportunity. That is done on a rolling basis, based on applications that are coming in. It is also done at the major plan amendment stage, when we have really large, significant precinct redevelopments being done that will have a significant infrastructure requirement.

THE CHAIR: On behalf of our committee, thank you for your attendance today. I think there were a couple of questions taken on notice. If you could get the answers to our secretariat within five days of receiving the uncorrected proof *Hansard*, that would be very helpful.

I would like to thank all our witnesses who have assisted the committee through their experience, knowledge and time. Thank you, broadcasting and Hansard. If anyone wants to lodge a question on notice, upload it within five business days. We will now adjourn.

The committee adjourned at 12.30 pm